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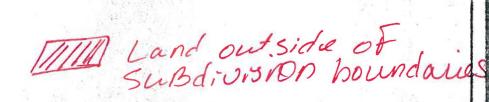
Vacated ROW

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# TARRYTOWN RIVER OAKS

PULL MAN BEOLVY (STO)

CHOOS F. ROUSCH MALLE





53 CLEVENDER C.G. Lavander Director or Public Works

D BY CITY PLANNING COMMISSION

Elizabeth forman

SOUNCIL, CITY OF AUSTIN, TEXAS.

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OF TEXAS

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CURVE DATA

O O O O O O

A 23-52 A 2-52 A 3000 A 11-00 A 11-00

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

That Westenheld Development Company, a corporation existing and transacting business under the laws of the State of Taxas, and domiciled in Travis County, Taxas, acting herein by and through the President, Margarat Graham Crusamann, theraunto duly authorized, does hereby subdivide a part of the Deniel J. Gilbert Is League Survey 8 in Travis County, Taxas, and being a portion of a 36 Acre tract as convayed to the Westenhold Development Company by Edward Clark, Everatt Loansy and Tom Miller by a dead dated October 20,19 %, and recorded in Book 974, Rage 337-340, of the Deed Records of Travis County, Taxas, and subdivision to be known and designated as TARRYTOWN RIVER OAKS, SECTION TIVO, and consists of certain Lots numbering 34 to 39 inclusive, seconding to the investment plates and plates hown hereon, and do her aby ded cute to the public all strawing allows have nevers.

IN WITNESS WHEREOF, Westen Der Combon so Company these counsed three presents to be expeed by its President Mergaret Una to the contempt seed on the the day of Unique 1.0. 1953.

WESTENFIELD DEVELOPMENT COMPANY

They get fin home Curcumana

THE STATE OF TEXAS

COUNTY STAVIS JENGE ME, the underwoods wherety we this day as a somethy appeared Margaret Trehem Cruserman. President of Westenfield Development Company is consoration, which he he to be the person whose name is subscribed to the foregoing instrument and she acknowledged to me that she executed the same for the purposes and consideration therein expressed in her ospecity as President of sent corporation and that same is the act and deed of said corporation.

day of Culin A. D. 1953. A

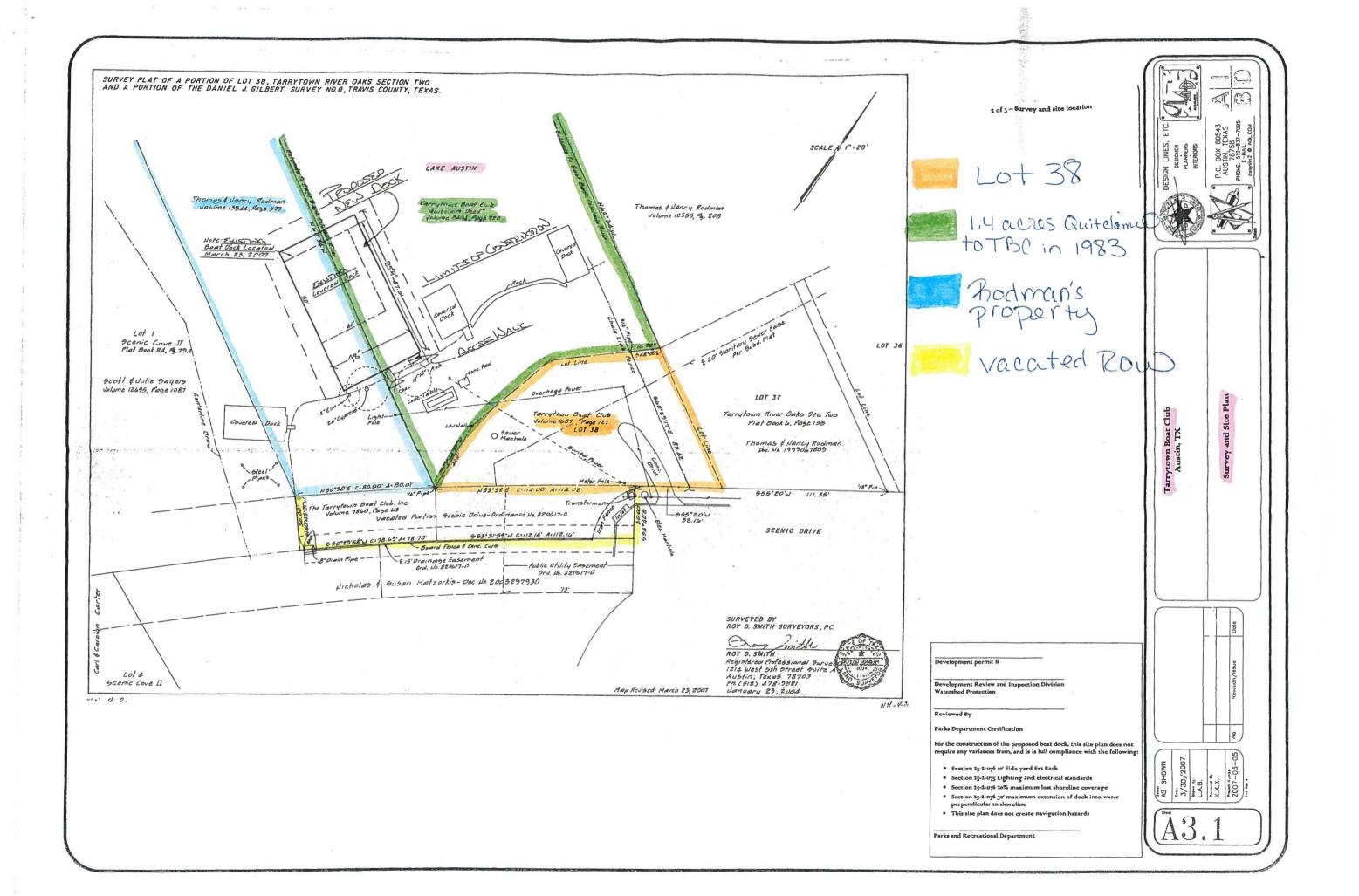
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LEGEND

- · Iron Stake Set
- · Iran Stake Found
- Concrete Monument Set
- a Concrete Monument Found



Malta & Molerts





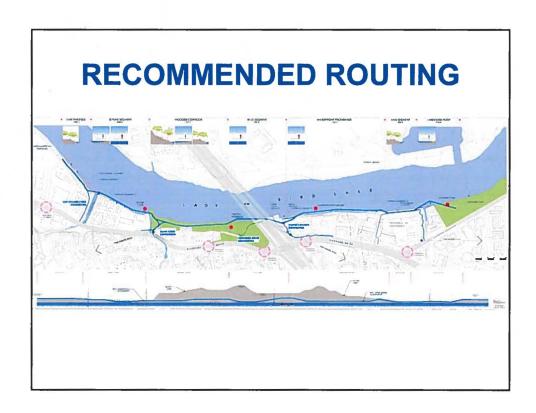
# PROPOSED CONCEPTUAL PLAN RECOMMENDATION 1/27/09

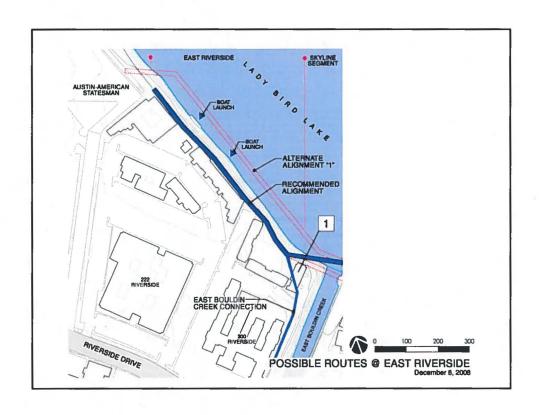
# **GOALS**

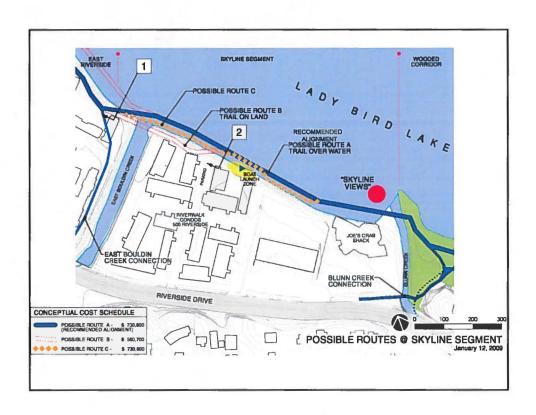
- Complete the lakeside hike and bike trail
- Provide a safe user experience
- Respect the natural settings
- · Connect trail to adjacent users
- Offer a variety of experiences
- Highlight scenic views
- Celebrate waterfront settings
- · Integrate with lake activities

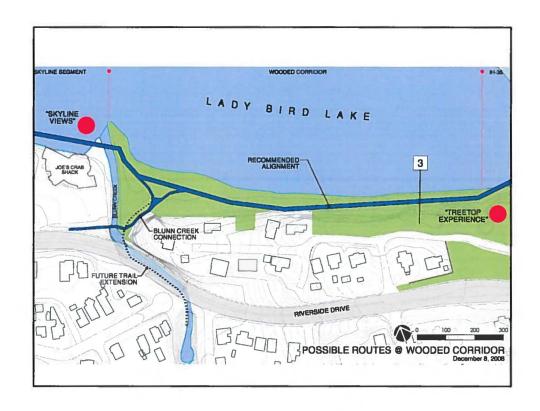
# **PATH PARAMETERS**

- Route on land where possible
- 14' width w/ gradual turns
- ADA compliant (typical 5% grade)
- Flood compatible
- Multi-use surface(s)
- Periodic rest stops
- Minor supporting facilities
- · Possible enhancements

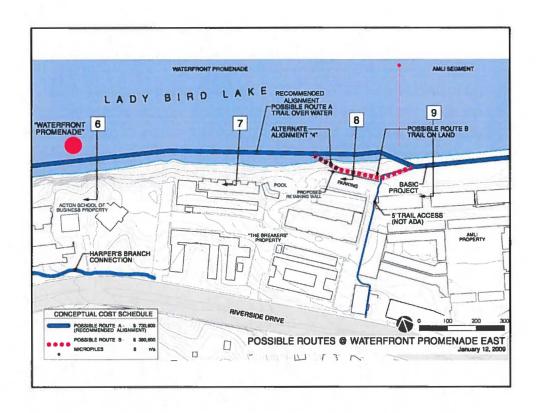


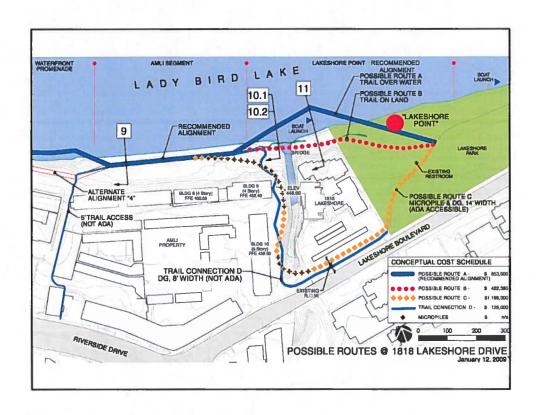












# RECOMMENDED TRAIL DESIGN ELEMENTS

- Nature trail vs. urban/commercial edge
- Concrete pier foundations
  - Mini-piles in shallow water or wetland
  - Piers in deeper water
- Steel structure w/minimal profile
- Concrete plank deck 4-6' above water
- Relatively transparent handrails
- Low level lighting

### **Tarrytown Boat Club Site Plan Application**

- \* Proposes to demolish existing boat dock (which TTBC contends was constructed and utilized as a 12-slip "john boat" boat dock) and construct a larger 12-slip boat dock.
  - 1956 City Council Resolution grants the Tarrytown Boat Club approval to construct a boat dock on Lot 38 subject to conditions provided by the City Building Inspector.
  - 1956 letter from the Building Inspector: conditions detailing construction materials and distance from the shoreline, navigational beacons and general maintenance.
  - \* Documentation from Tarrytown Boat Club:
    - + Meeting minutes detailing a request for funds to construct a 12-slip boat dock.
    - + \* Meeting minutes detailing assignment of 12 slips to individual owners in the Tarrytown Boat Club.
  - 2008 Travis County Appraisal District tax certificates for 11 boat slip owners at 2608 Scenic Drive.
  - Travis County Plat Records: Volume 6, Page 135, Final Plat of Lot 38.
  - The site plan includes Lot 38, Vacated ROW (Scenic Drive), R. Thomas Tract and the Rodman Tract.
    - + Lot 38 was platted and recorded in August 1953.
    - + The ROW was vacated June 1982.
    - + \* R. Thomas Tract Quitclaim Deed <u>quitclaims</u> un-platted land to Tarrytown Boat Club in November 1983.
    - + \* Rodman Tract Warranty Deed conveys un-platted <u>land lacking road</u> access (i.e. landlocked) in January 1999.
  - \* Also currently existing are two separate single-slip boat docks on Lot 38 and a single-slip boat dock <u>partly</u> on the Rodman Tract.
  - Land Development Code requires parking, sanitation facilities and garbage collection.
  - \* The existing boat dock is 40 feet wide, extends 79.5 feet into the lake and is located on both the Thomas Tract and the Rodman Tract.

# **Item # 3**

### City of Austin Sustainable Events Plan



Heidi Gerbracht, City Manager's Office March 5, 2009

# H

### Goal

- ► The goal for this program is to minimize green house gas emissions, consumption or degradation of natural resources, and materials entering the city's solid waste stream, specifically by addressing how events can:
  - ▶ Reduce Energy Consumption
  - ▶ Conserve Water
  - ▶ Preserve Air Quality
  - ▶ Reduce Waste



### History

- Initial work by Council offices began in early summer 2008.
- On December 18th, a resolution was passed by Council directing the City Manager to develop a sustainable events plan to present to Council within 90 days.



An internal stakeholders group from departments across the City has developed recommendations for events.



### **Applicability**

The Ordinance should apply to any organized events that:

- ▶ Receive City funding or use a City facility AND
- ▶Project 500 or more participants.

This ordinance will apply to all events organized or sponsored by the City. We recommend that the ordinance take effect in January 2010, to allow time for event promoters to prepare and for staff to develop a streamlined process.



### **Process**

- Staff will develop a green events application and post-event report, based on the requirements, to monitor compliance.
- A green event deposit will be collected for each applicable event.
- A Local Resource Toolkit, and a recognition program (Green Seal) for those events that exceed the requirements, are being developed and will be communicated to stakeholders.



Specific Requirements



### Next Steps

- Review by Environmental Board, Resource Management Commission, Parks and Recreation Board, and Solid Waste Advisory Commission.
- ▶ Briefing for City Council March 5, Action by Council March 12.
  - ▶ If approved by Council, staff will develop a specific event process and make administrative rule changes as necessary prior to January 2010 effective date. Annual reviews of science and market info by staff after ordinance goes live.

Staff Recommendations for Sustainable Events	
Focus	Staff Recommendation
Applicability	The Ordinance should apply to organized events with 500 or more projected participants in the corporate city limits that receive a City fee waiver, OR require a public street closure within Austin city limits, OR occur on City property, OR at City facility, OR receive City funds, fee waiver, or sponsorship.
Applicability	City departments and City facilities should not be exempt from the ordinance.
Process	Establish and include a Green Events deposit as part of all applicable permit processes.
Process	Develop a detailed pre-event application and post-event report for events to track their efforts.
Process	A Local Resource Toolkit will be developed and posted within six months of the effective date of the ordinance.
Process	City of Austin will review the requirements annually and update as needed.
Process	Promote the climate protection, air quality, and other environmental benefits of the event's efforts to reduce energy and water consumption, minimize waste, and provide cleaner transportation alternatives as applicable through signage at the event, in publications, and marketing materials.
Enforcement	Appropriate city departments may coordinate site inspections for compliance. The inspection would involve checking to be sure that the "green" details of the pre-event application have been accomplished.
Enforcement	Event organizers designate the responsible party for the event. The responsible party is responsible for compliance with green event regulations. The responsible party will file deposit to ensure compliance. Failure to comply with the regulations may result in forfeiture of the deposit and/or disqualification of the responsible party for event permits for up to 18 months. An appeal provision may be included.
Additional	A recognition program will be developed for those exceeding minimum requirements and posted within six months of the effective date of the ordinance.

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Transportation	Provide visible signage in a sufficiently large radius directing traffic around and to event location to minimize traffic congestion and associated vehicle idling.
Water	Comply with City of Austin Water Conservation Ordinance. (City Code, Chapter 6-4. Water Conservation)
Water	Provide approved drinking water at no charge to attendees from central sources dispensed in a safe/sanitary manner as an alternative to single-use bottled water consistent with the number of expected attendees.
Water	Effective, January 1, 2015, ban sale or distribution of water in single-use plastic bottles and provide approved drinking water at no charge to attendees from central sources dispensed in a safe/sanitary manner consistent with the number of expected attendees.



Thursday, December 18, 2008

🖫 + Back 🕮 Print

Item(s) from Council RECOMMENDATION FOR COUNCIL ACTION

ITEM No. 75

**Subject:** Approve a resolution directing the City Manager to develop policies regarding sustainability practices for organized events, parades, and festivals in the city and to report recommendations to City Council in 90 days.

Sponsor: Council Member Lee Leffingwell

Co-Sponsor1: Council Member Mike Martinez

Co-Sponsor2: Mayor Will Wynn

Additional Backup Material

(click to open)

□ Resolution

For More Information:



### MEMORANDUM

TO:

Marc Ott, City Manager

FROM:

Greg Canally, Deputy Chief Financial Officer

DATE:

December 18, 2008

SUBJECT:

Sustainability Practices for Organized Events, Parades, and Festivals

Item # 75 on the December 18, 2008 Council Agenda is to approve a resolution directing the City Manager to develop policies regarding sustainability practices for organized events, parades, and festivals in the city and to report recommendations to City Council in 90 days.

The potential fiscal and staffing impact for providing work on these sustainability practices for organized events is unknown. Currently, there are no resources or money budgeted for this effort. At this time, it is anticipated that staff from several City departments will be involved in this effort – Austin Energy (AE), Austin Police Department (APD), Solid Waste Services Department (SWSD), and Watershed Protection and Development Review Department (WPDRD).

As the work on this item is completed by City staff and other key stakeholders, the City Manager will refer these practices to the appropriate Boards and Commissions and return to Council within ninety days to report on the details. Any identified costs or resources will be included in these details.

### **RESOLUTION NO. 20081218-075**

WHEREAS, the City of Austin is one of the nation's most desirable destinations for hundreds of organized events annually, including festivals, athletic competitions, and parades; and

WHEREAS, the City has also developed a wide array of policies and programs to protect the environment, conserve natural resources, and enhance quality of life, including a Climate Protection Plan, water conservation policies, and efforts to reduce the amount of solid waste materials entering the waste stream; and

WHEREAS, the City's environmental policies should apply both to daily activities and to organized events; NOW, THEREFORE,

### BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The City Council directs the City Manager to work with City Council offices and key stakeholders to:

- develop requirements that will ensure that events involving City resources or funds or that require City approvals are conducted in an environmentally sustainable manner, including the minimization of:
  - o greenhouse gas emissions,
  - o consumption or degradation of natural resources,
  - o materials entering the city's waste stream; and
- compile a list of "best practices" for organizers to include in their events, whereby they can earn special recognition for implementing

sustainability practices that go above and beyond those called for under mandatory polices.

### BE IT FURTHER RESOLVED:

That the City Council encourages the City Manager to commit personnel and devote other resources necessary for the creation and execution of the new sustainability practices for organized events.

## BE IT FURTHER RESOLVED:

The City Manager is directed to vet these sustainability practices to appropriate Boards and Commissions and return with recommendations within 90 days.

ADOPTED: December 18, 2008 ATTEST: Xhell

Shirley A. Gentry

City Clerk

# **Item # 6**



### **MEMORANDUM**

To:

Parks and Recreation Board

From:

January 27, 2007

Date:

January 27, 2009

Subject:

Tarrytown Boat Dock Club

Case # SP-2008-0482D

A request has been received from Bruce Aupperle, on behalf of the Tarrytown Boat Club, to approve a site plan at 2608 Scenic Drive.

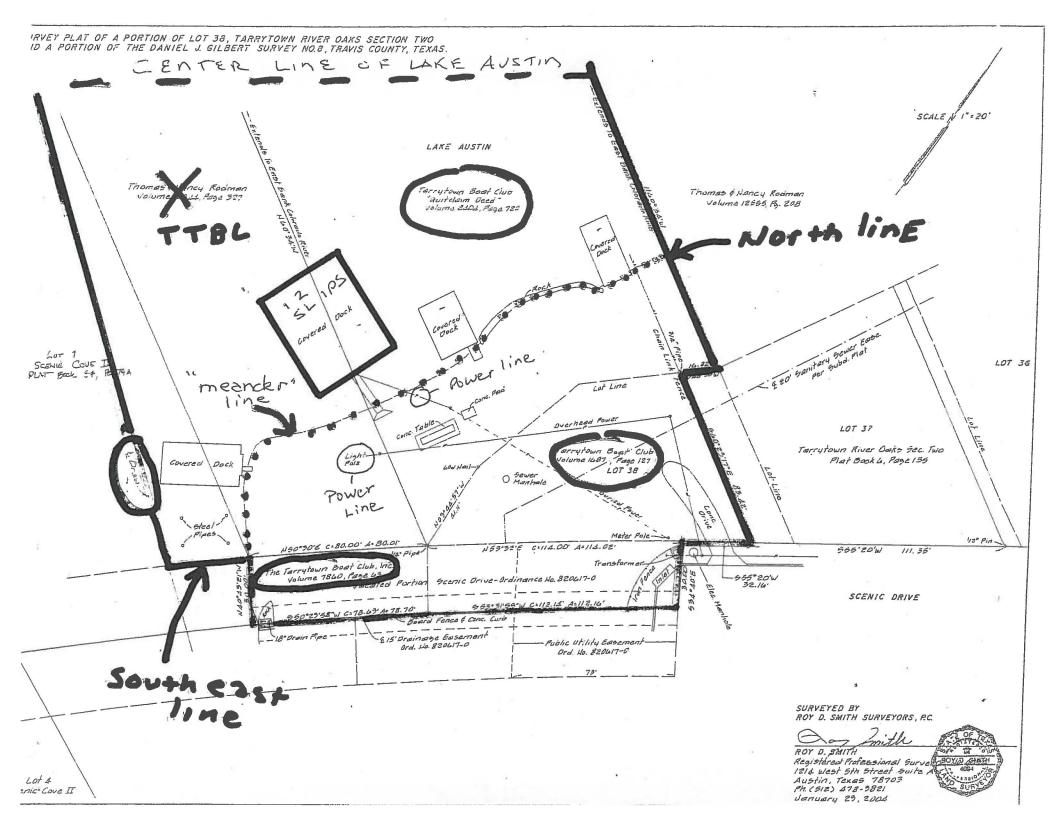
The Parks and Recreation Department staff has reviewed plans for the proposed boat dock and finds they do not meet the requirements of Article XIII, Section 25-2-1176, (Regulations for the Construction of Boat Docks) of the Land Development Code. The proposed boat dock exceeds 20% of shoreline frontage of the lot on which the structure is to be constructed.

Approval of the Parks and Recreation Board is required for structures that exceed 20% of shoreline frontage.

### Tarrytown Boat Club Site Plan Application

Proposes to demolish existing 6-slip boat dock and construct a larger 12-slip boat dock.

- 1956 City Council Resolution grants the Tarrytown Boat Club approval to construct a boat dock on Lot 38 subject to conditions provided by the City Building Inspector.
- 1956 letter from the Building Inspector: conditions detailing construction materials and distance from the shoreline, navigational beacons and general maintenance.
- Documentation from Tarrytown Boat Club: meeting minutes detailing a request for funds to construct a 12-slip boat dock.
- Travis County Appraisal District tax certificates for 11 boat slip owners at 2608 Scenic Drive.
- Travis County Plat Records: Volume 6, Page 135, Final Plat of Lot 38.
- The site plan includes Lot 38, Vacated ROW (Scenic Drive), R. Thomas Tract and the Rodman Tract.
  - + Lot 38 was platted and recorded in August 1953.
  - + The ROW was vacated June 1982.
  - + R. Thomas Tract Quitclaim Deed conveys un-platted land to Tarrytown in November 1983.
  - + Rodman Tract Warranty Deed conveys un-platted land in January 1999.
- Also currently existing are two separate single-slip boat docks on Lot 38 and a single-slip boat dock on the Rodman Tract.
- Land Development Code requires parking, sanitation facilities and garbage collection.
- The existing 6-slip boat dock is 40 feet wide, extends 79.5 feet into the lake and is located on both the Thomas Tract and the Rodman Tract.



- (b) anchoring, mooring, or storing not more than one vessel.
- (5) SHORELINE means the line where the edge of the water meets the land at normal pool elevation.

Source: Section 13-2-790; Ord. 990225-70; Ord. 031211-11.

§ 25-2-1173 PERMIT REQUIRED FOR DOCK CONSTRUCTION.

- (A) A person may not construct a dock unless the person first obtains a permit and pays a permit fee set by ordinance.
- (B) The building official or the director of the Parks and Recreation Department may place an identification or registration tag on a dock. A person may not remove a tag placed under this subsection.
- (C) A permit obtained under this section shall be prominently displayed at the construction site until the final inspection and approval by the building official.
- (D) The building official may not approve an application for a permit for the construction of more than two residential docks or other similar structures on a single lot zoned MF-1 or more restrictive, unless:
- (1) the lot was platted and recorded before August 26, 1976 and perpetual rights to use the water frontage of the lot were granted or conveyed to one or more owners of other lots in the subdivision before June 23, 1979 or
  - (2) the Parks and Recreation Board has approved a site plan that clusters the boat docks on one or more lots in the subdivision.
- (E) If a permit is required under this section and is not obtained before construction begins, the required fee is increased by an amount established by ordinance. Payment of the additional fee does not relieve a person from complying with this Code.

Source: Sections 13-2-791 and 13-2-794; Ord. 990225-70; Ord. 031211-11.

§ 25-2-1174 STRUCTURAL REQUIREMENTS.

- (A) A dock must:
  - (1) comply with the requirements of Chapter 25-12, Article 1 (Uniform Building Code) and the Building Criteria Manual; and
  - (2) be braced to withstand pressure of wind and water when boats are tied to the dock.

### Presentation to the City of Austin Parks Board

(January 27, 2009)

Prepared by Craig A. Dunagan\*, attorney for the Tarry Town Boat Club, a Texas non-profit corporation

\*BOARD CERTIFIED SPECIALIST - COMMERCIAL REAL ESTATE LAW

Texas State Board of Legal Specialization

Admitted in Texas & California

The Tarry Town Boat Club is seeking approval to replace an existing cluster of 12 floating boat slips with a cluster of 12 moored boat slips. The older slips were designed to accommodate 12 John boats. The new slips are designed to accommodate 12 ski boats. Any reduction in the number of slips will result in a taking of slips that have been in continuous use for over 52 years. A change in the size of the slips is warranted because in the past 52 years the ski type boat has replaced the john boat style boat as the typical water craft on Lake Austin. The original density permitted by the City of Austin of 12 slips for 12 boats will not be altered by this request. Just as the size of parking spaces for cars has changed in the last 50 year to accommodate larger and smaller vehicles, parking spaces for boats too must change with the times.

The application pertains to Lot 38 in the Tarry Town River Oaks a 55 year old subdivision in Old West Austin.

City of Austin Code section 25-2-1173 sets out three requirements for a building official approval of the construction of the proposed replacement cluster of 12 boat slips on this lot:

- (1) Parks and Recreation Board must approve of the site plan that clusters boat dock on one or more lots in the subdivision. Bruce Aupperlie will address the cluster plan. I am addressing in the issue raised as to the TTBC's subdivision lot.
- (2) Lot 38 must be recorded and platted before August 26, 1976.
  - Lot 38 was platted as part of the Tarry Town River Oaks Section Two Subdivision recorded on August 6, 1953 in Volume 6, Page 135, Plat Records of Travis County, Texas.
  - The legal lot status of Lot 38 has been confirmed by the City of Austin in a land status determination.
  - The history of the TTBC and the well established line of Texas Supreme Court cases demonstrate that the TTBC's

land has for over 52 years included the platted lot, the shore line "strip" of land between the subdivision lot line and the water's edge and ½ of the adjoining lake bottom, all of which acquired as a matter of law in 1955.

- More recently, the TTBC has taken prudent action to merely quiet title to that land is has owned and continuously used for over 52 years. The TTBC has also acquired the City's vacated right of way that was originally planned for a bridge over Taylor Slough. Acquiring abandoned right of way adjacent to the TTBC's property does not affect the lot's legal lot status.
- A neighbor in opposition to the TTBC has drawn the boundary of Lot 38 into question to confuse the City staff as to when the TTBC acquired its land. There should be no confusion, as action to quiet title does not change the date on which title was lawfully acquired. Action to quiet title affects only the quality of the title that was acquired. It does not convey title. To repeat, Action to quiet title affects only the quality of the title that was acquired. It does not convey title.

  In the last 52 years, TTBC has improved the quality of its title to the lot, shore line and lake bottom that it acquired in 1956.
- (3) Perpetual rights must be granted to use the shore line to one or more owners of lots in the Tarry Town River Oaks Subdivision before June 23, 1979. That occurred in this case in 1956, over 52 years ago. These rights are evident in the vesting deed to Lot 38, which conveys the lot to the TTBC, as a community "boating club" irrefutably owned by and only by the collective owners of the 38 lots in the Tarry Town Rover Oaks 1 and 2 subdivision.

Tarry Town River Oaks Section One and Two Subdivision has 38 lots, including Lott 38

- Lot 38 is the TTBC land
- 7 lots have shoreline docks
- 3 lots have separate docks
- 27 lot owners are eligible for clustered docks Including those who would be folded into the new 12 slip dock. This will require lot owners to acquire all or a shared interest in new slip docks.
- The replacement cluster of docks will not extend further out into the lake & will be positioned so the existing views are not further obstructed.

### The pertinent time line and legal support follows.

### Tab 1

Aug 6, 1953

Tarry Town River Oaks Section Two Subdivision is created containing 38 lots, including lot 38. The Westenfield Development Company led by Mr. Cruseman was the developer.

The Plat clearly shows that Lot 38 abuts the water's edge. As such it is a "meander line."

"It is a rule of general acceptation that **meander** lines of surveys of land adjacent to or bounding upon a stream are not to be considered as boundaries, but they are to follow the general course of the stream, which in itself constitutes the real boundary." **Stover v. Gilbert**, 1923, 112 Tex. 429, 247 S.W. 841

It is important to note that at this time and at all pertinent times thereafter until the TTBC acquired its property Westenfield Development Company owned the land outside of the platted lot lines of the subdivision, including the shore line and the lake bottom on the Easterly and Westerly sides of the TTBC property.

### Tab 2

Feb 21, 1955

Tarry Town Boat Club (TTBC) was formed as a non-profit corporation; for the stated purpose of granting shoreline rights to its members for boating and related recreational purposes.

Westenfield Development Company led by Mr. Cruseman was the developer and was the promoter and organizer of this Boat Club and was responsible for the deed to the TTBC and imposed a restriction in the deed limiting the use of the property to boating and recreational purposes, the same as is reflected in the clubs articles of incorporation and bylaws.

The TTBC charter states that its purpose is to establish and maintain ... boating privileges for

its members, and to own land and bodies of water for such purpose and to erect suitable improvements thereon to facilitates for that purpose.

The Bylaws at Article 4 section 1 limit membership to those persons who own lots in Tarry Town River Oaks Section One or Section 2. Ownership, including boat dock ownership, cannot be transferred outside of the subdivision.

By virtue of lot ownership, each lot owner is entitled to all of the privileges of the TTBC and to use of all of its facilities, subject only to payment of club dues and as to docks, subject to the agreement to participate in the construction and maintenance cost of the docks. Initially, 12 lot owners in the subdivision participated in the cost to build and maintain the 52 year old 12 slip dock that is involved in this application. 12 slips were designed, permitted, built, paid for and assigned to TTBC members.

Club facilities are reserved and dedicated to members only use and enjoyment.

### <u>Tab 3</u> Apr 27, 1956

TTBC acquires Lot 38 Tarry Town River Oaks Section 2, this deed recites that the boundary includes the meander line (see call no. 2 "thence with the bank of Lake Austin..." and include the lake bottom (see page 2 ("It is the intent that the North Line and the South East line of this tract are to project out to the waters edge of Lake Austin" and this deed restricts use of the land to "boating club and related activities".

Westenfield Development Company led by Mr. Cruseman as the developer deeds the property.

This deed expressly included the shoreline and by operation of law includes all of the "shoreline" and the lake bottom used by the TTBC for the last 52 years.

### Tab 4

"The intention of the parties to a deed with respect to the boundaries is ordinarily a fact question. Bickler v. Bickler, supra at 361. See

<u>King v. Dallas</u>, 374 S.W.2d 707, 712 (Tex.Civ.App.--Dallas 1964, writ ref'd n.r.e.).

If the ownership of the TTBC's shoreline or lake bottom land were to be contested, as a matter of common law in Texas, the shoreline and lake bottom land would be deemed to be owned by TTBC.

As to the land along the shore, Texas courts have established the following rules:

### (1) Strip and Gore

Alkas v. United Savings of Association of Texas, Inc. (672 S.W. 2nd 852,: 1984 Tex. App), states in pertinent part as follows:

"Under certain circumstances, the courts will construe an instrument so as to include an adjacent small parcel of land in the conveyance of a larger parcel. An instrument of conveyance is construed to include the small parcel because it is against public policy to leave title of a small parcel in a grantor conveying a larger parcel tract adjoining or surrounding a smaller parcel. The reason for this policy is that the land is of no benefit or importance to the grantor."

The Alkas case also requires that title to the tract or strip of land in question be (i) vested in the grantor at the time of the conveyance; and (ii) the tracts must be of no benefit or importance to the grantor. The Grantor, Westenfield Development Company owned such land. The land surrounding platted lot line of Lot 38 is generally subject to an inundation easement in favor of the LCRA making it worthless to the developer and the developer specifically professed in recorded documents that the only use of such land was for the TTBC's boating and recreational uses. Further the deed expressly states "It is the intent that the North Line and the South East line of this tract are to project out to the waters edge of Lake Austin".

The Atlas case is also important because it concluded that both the appellees in that case had good title to the tracts in contest and because it ruled that good title related back to January 20, 1976, the date of the

<u>deed that was in contest</u>. See 76 C.J.S. (Corpus Juris Secundum) Reformation of Instruments section 93 (1952).

Haby V. Howard, 757 S.W.2nd 34 (1988) sets forth what is well known as the "Doctrine of Strip and Gore".

"The strip and gore doctrine applies only when the specific strip is not included in the field notes of the conveyance. Strayhorn, 300 S.W.2d at 638. When it is apparent that a relatively narrow strip of land which is small in size and value in comparison to the adjoining tract conveyed by the grantor, has ceased to be of benefit or importance to the grantor, it may be presumed that the grantor intended to convey the narrow strip along with the larger tract under the doctrine of "strip and gore". Angela v. Biscamp, 441 S.W.2d 524, 526--27 (Tex.1969). In one case, a warranty deed to a parcel of land did not include a strip of land next to a river bank, but there was evidence that the deed was intended to include such a strip since there was no fence separating the strip from the rest of the parcel of land, and the strip by itself had little value, if any. Under these circumstances the strip was held to pass to the grantee under the "strip and gore" doctrine. Strayhorn v. Jones, 157 Tex.136, 300 S.W. 2d 623, 638 (1957). The strip and gore doctrine applies only when that specific strip is not included in the field notes or the property description of the conveyance. Id."

The Texas supreme court in Cantley v. Gulf Production Co., 1940, 135 Tex. 339, 143 S.W.2d 912, 915, said: "It is well known that separate ownership of long narrow strips of land, distinct from the land adjoining on each side, is a fruitful source of litigation and disputes. To avoid this source of contention, it is presumed that a grantor has no intention of reserving a fee in a narrow strip of land adjoining the land conveyed when it ceases to be of use to him, unless such fee is clearly reserved. The reason for the rule is obvious. Where it appears that a grantor has conveyed all land owned by him adjoining a narrow strip of land that has ceased to be of any benefit or importance to him, the presumption is that the grantor intended to include such strip in such conveyance; unless it clearly appears in the deed, by plain and specific language, that the grantor intended to reserve the strip. See Cox v. Campbell [135] Tex. [428,] 143 S.W.2d 361; Rio Bravo Oil Co. v. Weed, 121 Tex. 427, 50 S.W.2d 1080, 85 A.L.R. 391; Texas Bitulithic Co. v. Warwick, Tex. Com.

App., 293 S.W. 160. For an annotation of the decisions bearing on this question, see also 123 A.L.R. 543, 47 A.L.R. 1277, and 2 A.L.R. 7."

### (2) Shoreline Accretion

As to the shoreline accretion, shown in Tab 4, Texas follows the general rule that when the location of the margin or bed of a body of water that constitutes the boundary of a tract of land is gradually and imperceptibly changed or shifted by accretion, reliction, or erosion, the margin or bed of the body of water, as so changed, remains the boundary line of the tract, which is extended or restricted accordingly. Brainard v. State 12 SW 3<sup>rd</sup> 6, (Texas 1999).

### (3) Meander Lines

### As to the Shoreline Boundary, the court have said:

"It was stated by this Court in the case of <u>Stover v.</u> <u>Gilbert</u>, 1923, 112 Tex. 429, 247 S.W. 841, with regard to whether or not course and distance calls meandering the Brazos River were the limits of the tract conveyed, or whether the tract was bounded by the Brazos River, as follows:

"It is a rule of general acceptation that meander lines of surveys of land adjacent to or bounding upon a stream are not to be considered as boundaries, but they are to follow the general course of the stream, which in itself constitutes the real boundary."

"The rule is concisely stated in Corpus Juris, book 9, p. 189, as follows:

"'The general rule adopted by both state and federal courts is that meander lines are not run as boundaries of the tract surveyed, but for the purpose of denning the sinuosities of the banks of the stream or other body of water, and as a means of ascertaining the quantity of land embraced in the survey. The stream, or other body of water, and not the meander line as actually run on the ground, is the boundary...'"

"In Ruling Case Law, book 4, p. 97, the same rule is expressed in this language:

"'In surveying land adjacent to a stream, whether navigable or not, lines are often run from one point to

another along or near the bank or margin of the stream, in such a manner as to leave a quantity of land lying between these lines and the thread or bank of the stream. These are called meander lines, and they are not the boundaries of the tract, but they merely define the sinuosities of the stream which constitute the boundary, and as a general rule the mentioning in a deed or grant of a meander line on the bank of a river as a boundary, will convey title as far as the shore unless a contrary intention is clearly apparent.'"

### (4) Lake Bottom Ownership

As to the ownership of the abutting lake bottom land, the Texas court have opined that "When private parties make a conveyance of land bordering on a stream without an express reservation of the stream bed the settled rule of law is that the grantor intended to convey whatever title he has to land under water." Moore v. Ashbrook, supra; 7 Tex. Jur. 132, Sec. 13; 56 Am.Jur. 888, Sec. 474; 65 C.J.S., Navigable Waters, §§ 120, pp. 251, 253; American Law of Property, Vol. III, p. 244, Sec. 12.27 and 12.113.

"Good reason for extending the title of grantees to the bed of the stream is that they might be able to enjoy the riparian rights which they are entitled to by virtue of owning land adjoining the river." Stoval v. Gilbert (1923) 112 Tex, 429. These rights are discussed in Motl v. Boyd, 1926, 116 Tex. 82, 286 S.W. 458, 467; American Law of Property, Vol. III, Sec. 12.32, pp. 265, et seq.; Kinney on Irrigation and Water Rights, 2d Ed., Vol. 1, p. 549, Secs. 334, et seq.; 65 C J.S., Navigable Waters, §§ 122, p. 255.

In <u>Stradley v. Magnolia Petroleum Co.</u>, Tex. Civ. App. 1941, 155 S.W.2d 649, 651, wr. ref., there are quotations from various authorities of which the following from 26 C.J.S., Deeds, §§ 106, p. 903, is appropos:

"'It is a general rule that upon the conveyance of property the law implies a grant of all the incidents rightfully belonging to it at the time of conveyance and which are essential to the full and perfect enjoyment of the property.'" See also **Harris v. Currie**, 1944, 142 Tex. 93, 98, 176 S.W.2d 302(1).

No case says it more clearly than <u>J.R. Strayhorn</u> V. <u>Jones</u>, 300 S.W. $2^{nd}$  623 (1957).

"We hold that when a private person (including corporations, etc.) conveys title to lands owned by him abutting a stream---whether navigable or not---such conveyance passes to the grantee (unless the conveyance clearly shows a contrary intention) title to the one-half of such stream bed abutting his land, subject, of course, to whatever rights the State of Texas may have in the stream bed."

"There is well recognized difference a between conveyances made by the sovereign, municipalities, etc. and those made by individuals. Where the sovereign or municipality makes a conveyance of land bordering on a stream without specifically including lands under streams, the settled rule of law is that such grantor intended to convey only to the water line in order to preserve for the public all rights to enjoy the stream bed and the water therein. Heard v. Town of Refugio, 1937, 129 Tex. 349, 103 S.W.2d 728, 732 (4), and the authorities therein cited; Mayor, etc., of <u>City of Galveston v. Menard</u>, 1859, 23 Tex. 349, 390; <u>Landry v. Robison</u>, 1920, 110 Tex. 295, 219 S.W. 819; 8 Am.Jur. 759, Sec. 21; Id., p. 769, Sec. 32; 65 C.J.S., Navigable Waters, §§ 120, p. 248. When private parties make a conveyance of land bordering on a stream without an express reservation of the stream bed the settled rule of law is that the grantor intended to convey whatever title he has to land under water. Moore v. Ashbrook, supra; 7 Tex. Jur. 132, Sec. 13; 56 Am. Jur. 888, Sec. 474; 65 C.J.S., Navigable Waters, §§ 120, pp. 251, 253; American Law of Property, Vol. III, p. 244, Sec. 12.27 and 12.113.

"See also Rudder v. Ponder, 1956, Tex., 293 S.W.2d 736(5); Johnson v. Phillips Petroleum Co., Tex. Civ. App.1953, 257 S.W.2d 813, no writ history; Teal v. Powell Lumber Co., Tex. Civ. App.1953, 262 S.W.2d 223(8), no writ history; Burkett v. Chestnutt, Tex. Civ. App.1919, 212 S.W. 271, no writ history; McCombs v. McKaughan, Tex.Civ.App.1946, 195S.W.2d 194, wr. ref.; State v. Atlantic Oil Producing Co., Tex. Civ. App.1937, 110 S.W.2d 953, wr. ref.; State v. Arnim, Tex. Civ. App.1943, 173 S.W.2d 503, 508(3--7), ref. w. o. m.; 7 Tex. Jur. 128, Sec. 9; 11 C.J.S., Boundaries, §§ 30, p. 572--573."

"Another good reason for extending the title of grantees to the bed of the stream is that they might be able to

enjoy the riparian rights which they are entitled to by virtue of owning land adjoining the river. These rights are discussed in Motl v. Boyd, 1926, 116 Tex. 82, 286 S.W. 458, 467; American Law of Property, Vol. III, Sec. 12.32, pp. 265, et seq.; Kinney on Irrigation and Water Rights, 2d Ed., Vol. 1, p. 549, Secs. 334, et seq.; 65 C J.S., Navigable Waters, §§ 122, p. 255. We hold that Wood, Price and his assigns, and R. G. Maben, Jr. took title to their land down to the bed of the Salt Fork adjoining their lands, together with all rights Barron had in the west one-half of the river bed by virtue of his ownership of the land west and south of the river. Texas Bitulithic Co. v. Warwick, Tex. Com. App.1927, 293 S.W. 160; Cox v. Campbell, infra; 65 C.J.S., Navigable Waters, §§ 120 b (1), p. 251; Id., §§ 122 a, p. 255.

"Our latest expression that it is against public policy to leave title of a long narrow strip or gore of land in a grantor conveying a larger tract adjoining or surrounding this strip is found in the case of Haines v. McLean, 1955, 154 Tex. 272, 276 S.W.2d 777, 782(4).

"It was also held that a deed to the easterly portion of the same tract, describing the westwardly boundary of said portion as being the easterly line of the nearest of the several easements, carried the fee title to the center line of the combined easement (subject, of course, to the rights of the easement owners). These holdings were partly based upon the rule of law concerning strips and gores. See also Cox v. Campbell, 1940, 135 Tex. 428, 143 S.W.2d 361; Earhart v. Rosewinkle, 1940, 108 Ind.App. 281, 25 N.E.2d 269, 272.

"We next dispose of the title to the accreted land along the south, or right bank, of the Salt Fork which constitutes the north boundary of the Wood land. Having held that under the Barron deed Wood took all of Barren's title to the center of the stream, and that under the Small Bill his title was ratified and confirmed to the south one-half of the river opposite the bank of the river which he owned, it follows that the title to all accreted land on this south bank vested in Wood and his assignees, as their interests may appear. Sharp v. Womack, 1936, 127 Tex. 357, 93 S.W.2d 712; Hancock v. Moore, Tex. Civ. App.1939, 137 S.W.2d 45, affirmed 135 Tex. 619, 146 S.W.2d 369; Rosetti v. Camille, Tex. Civ. App.1917, 199 S.W. 526, wr. ref.; Denny v. Cotton, 1893,

3 Tex. Civ.App. 634, 22 S.W. 122, wr. ref.; 11 C.J.S., Boundaries, §§ 34, p. 579; 65 C.J.S., Navigable Waters, §§ 122 b, p. 255.

[Strayhorn v. Jones, 300 S.W.2d 623] No. A-5871. Supreme Court of Texas. March 6, 1957. Rehearing Denied April 24, 1957. The date of this case reflects that at this time in Texas history the issue of shoreline rights commended the center stage attention of the Texas Supreme Court. Note that the time line this case reflect that this litigation was pending when the TTBC lot was created and conveyed to the TTBC].

### <u>Tab 5</u>

June 1956

Westenfield Development Company led by Mr. Cruseman as the developer leads the club though the steps to determine the desire for boat docks and a determination of how many slips are needed, determinates there is a need and desire for 12 dock slips and then proceeds to secure plans permits and approval for the City of Austin for the same in the water in front of the club's property.

July 12, 1956

As reported by Westenfield Development Company led by Mr. Cruseman as the developer, City of Austin approved of the plans and construction of 12 boat slips projecting out into the Lake approximately 50'. A marine supply and tackle business is permitted as part of the approval.

The 12 Boat slip are assigned to members based upon a first come first served basis, agreement to participate in capital costs and maintenance obligations. Initially, 12 lot owners in the subdivision participated in the cost to build and maintain the 52 year old 12 slip dock that is involved in this application. 12 slips were designed, permitted, built, paid for and assigned to TTBC members.

### Tab 6

Oct 13, 1961

Former president LBJ purports to buy the remainder of the Tarry Town River Oaks Subdivision unplatted land from developer Westenfield. This land was essentially the lake bottom and creek bottom in front of lots 34, 35, 26, 27, 38, 39 and 21 and it apparently or purportedly included a portion of the "beach" that was partly land fill and the land between the old flood line and the new dam controlled lake level.

This deed, as stated in the last two paragraphs thereof contain exceptions to the grant making it clear that this conveyance was generally subject to all valid restrictions and conveyance then existing as reflected in the Records of Travis County, Texas and the same is specifically subject to the rights of present and future owners of adjacent tract (including Lot 38 of Tarry Town River Oaks Section 2) to access across intervening property to the waters of lake Austin and Taylor Slough.

The case of <u>Coyne v. Butler</u>, 396 S.W.2d 474 (Tex. Civ. App. - Corpus Christi 1965, no writ) states: "The term 'exception,' as used in grants or contracts, has been frequently defined. In 3 Words and Phrases, p. 2538 et seq., the following is given: 'An 'exception,' as the term is used with reference to contracts, is the taking some part of the subject-matter of the contract out of it.' 'An exception in a deed or other instrument is something existing before as a part of the thing granted, and which is excepted from the operation of the conveyance."

The Deed to LBJ therefore excepted the land owned by the TTBC and all of its rights and appurtenances, including the Lot 38, the shore strip or gore of land, the lake bottom, the Taylor Slough shore line and lake bottom. TTBC rightly believed and consistently acted in reliance that it owned the beach and the lake bottom and this owner was never challenged by LBJ who owned the lands for 20 years.

Sept 26, 1966

Westenfield Development Company **quit claims** to Lot 37 (and others) the shore line tract. This quitclaim was no doubt prompted by the need to clear up the ownership of the shoreline when owners began to construct boat docks. See discussion below regarding Quitclaim Deeds.

## <u>Tab 7</u>

Aug 26, 1976

In addition to being platted before August 26, 1976, the COA land status determination notes that electric service was granted in 1969 (service is supposed to be granted only to legal lots) and the lot as it now exists with the addition of the vacated street right of way is still a legal lot under the 1987 Rule Exemption. The power line as

located on the survey extend to lot 38 proper, the shore thereof, the docks in the water of lake Austin and the adjacent shoreline on TTBC land purportedly deed by Ray Thomas to Thomas Rodman.

### Tab 8

Apr 2, 1981

This affidavit was recorded contemporaneously with the acquisition by Ray Thomas of the various lake bottom parcels from LBJ. The attached Affidavit recorded in Volume 7388 at pg 47 reflects the intent and understanding that TTBC's Lot 38 was always intended to have lake access.

TTBC as the owner of Lot 38 was at this time still actively using the entire shore front and lake bottom outlined in the map under tab 4. This land extends to the water of Lake Austin and in Taylor's Slough. This deed references TTBC's access to Taylor Slough reflects TTBC's long standing understanding of rights to ownership and use of the fill land that now adjoins Lot 38 on the Westerly side. This land fill or reclamation is believed to have occurred in 1954 as the added shore line appears in the "Map of Survey" from 1954. (Tab 6)

#### Tab 9

Sept 1, 1982

Ray Thomas purports to sell to the TTBC part of the vacated Scenic Drive Street

Apr 13, 1983

TTBC acquires by Quitclaim from the City of Austin of Street right of way adjoining Lot 38 and Ray Thomas acquires the remainder of the vacated street by quit claim deed form the City of Austin

These acquisitions of the vacated street right fo way does not have may affect on the TTBC's legal lot status.

#### Tab 10

Nov 18, 1983

Ray Thomas apparently relented (or more likely was paid) to **quitclaim** the lake bottom and shoreline piece in 1983 to TTBC to quiet title.

It is important to note that a "quit claim" is not a conveyance, it does not create an insurance interest in land and it serves to merely quiet title to land ownership and therefore merely improved the quality of title that the TTBC already owned.

The following is excerpted from an paper titled "Title Warranties" presented by Jim Gosdin of Stewart Title Guaranty Company from the state Bar of Texas  $16^{th}$  annual Advanced Real Estate Drafting Course March 10-11, 2005.

"B. Quit claim deeds

It is often said that a quitclaim is not a "true deed." A guit-claim deed uses words such as in a release: "release, remise, and quit claim." By such words the grantor does not warrant against adverse title, but only against the grantor. A quit claim is a deed of release of one's rights, title and interest, and simply conveys the present interest of the grantor, but does not convey any interest that may subsequently vest in the grantor. The guit claim refers to the estate sold and not the land. The quit claim is contrasted with a deed where the absolute right to the land and not the chance of title is sought to be transferred. If a deed is a quitclaim deed, then the grantee and all of those claiming under the grantee will be deemed to be on notice of unrecorded instruments by the grantor. Threadgill v. Bickerstaff, 87 Tex. 520, 29 S.W. 757 (1895); Rodgers v. Burchard, 34 Tex. 442 (1870); Houston Oil Co. v. Niles, 255 S.W. 604 (Tex. Comm'n App. 1923, holding approved); Miller v. Pullman, 72 S.W. 2d 379 (Tex. Civ. App.-Galveston 1934, writ ref'd)."

#### Tab 11

Jan 5, 1999

Ray Thomas purports to deed Lake bottom Tract 7 to Tom and Nancy Rodman.

#### Tab 12

Feb 4, 2004

City of Austin issues Legal Lot Land status determination for Lot 38 owned by TTBC

Jan 2009

Tom and Nancy Rodman quitclaim to TTBC Lake bottom Tract 7 to quiet TTBC's ownership interest in the same. This is a title curative measure, not a conveyance as noted above. It merey improves the quality fo the TTBC's title to its land and lake bottom tract.

# **Item #7**



#### **MEMORANDUM**

To:

Parks and Recreation Board

From:

Sara L. Hensley, CPRP

Director, Parks and Recreation Department

Date:

January 27, 2009

Subject:

Christopher Boat Dock

Case # SP-2008-0435DS

A request has been received from Jeff Walker, on behalf of Clayton Christopher, to approve a site plan at 1855 Westlake Drive.

The Parks and Recreation Department staff has reviewed plans for the proposed boat dock and finds they do not meet the requirements of Article XIII, Section 25-2-1176, (Regulations for the Construction of Boat Docks) of the Land Development Code. The proposed 2-slip boat dock exceeds 20% of shoreline frontage of the lot on which the structure is to be constructed.

Approval of the Parks and Recreation Board is required for structures that exceed 20% of shoreline frontage.

# **Item #8**



#### **MEMORANDUM**

To:

Parks and Recreation Board

From:

January 27 2000

Date:

Subject:

River Terrace Boat Dock

Case # SP-2008-0539DS

A request has been received from Casey Giles, on behalf of Thomas Davis Jr., to approve a site plan at 2721 River Hills Road.

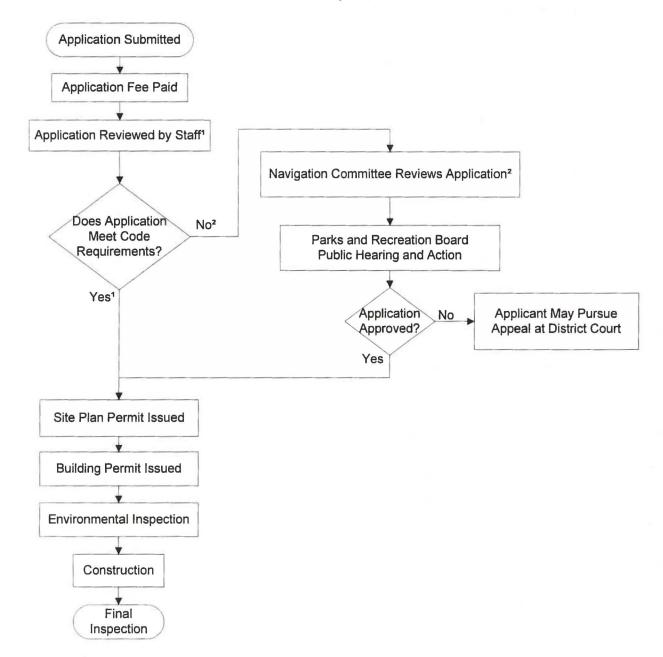
The Parks and Recreation Department staff has reviewed plans for the proposed boat dock and finds they do not meet the requirements of Article XIII, Section 25-2-1176, (Regulations for the Construction of Boat Docks) of the Land Development Code. The proposed 2-slip boat dock exceeds 20% of shoreline frontage of the lot on which the structure is to be constructed.

Approval of the Parks and Recreation Board is required for structures that exceed 20% of shoreline frontage.



## **Boat Dock Permit Process**

January 06, 2009



#### 'REQUIREMENTS:

- 1) 2 slip maximum for MF-1 or more restrictive
- 2) Width of structure cannot exceed 20% of shoreline width of lot without Parks and Recreation Board (PARB) approval
- 3) Projection of dock cannot extend further than 30' from shoreline without PARB approval
- 4) Setbacks: Dock cannot be constructed with 10' of a side lot line without PARB approval

<sup>2</sup>Any deviation of the above requirements must be approved by PARB unless otherwise directed by staff. A variance request for consideration by PARB must be submitted to staff by applicant.

# Parks and Recreation Department Number of Boat Dock Applications for 2006-2008

The following are boat dock variance requests to the Parks and Recreation Board for the calendar years from 2006-2008.

Month/Year	Number of Variances	Number of Variances	
	requested	approved	
Jan. 2006	-0-	n/a	
Jan. 2007	-0-	n/a	
Jan. 2008	-0-	n/a	
Feb. 2006	-6-	-6-	
Feb. 2007	-0-	n/a	
Feb. 2008	-1-	-1-	
Mar. 2006	-1-	-0- (denied)	
Mar. 2007	-4-	-0- (deffied) -4-	
Mar. 2008	-0-	n/a	
Apr. 2006	-0-	n/a	
Apr. 2007	-3-	-3-	
	-5-		
Apr. 2008	-1-	-3- (one denied, one tabled)	
May 2006	-0-		
May 2007		n/a	
May 2008	-0-	n/a	
Jun 2006	-0-	n/a	
Jun 2007	-0-	n/a	
Jun 2008	-2-	-0- (both pulled)	
Jul 2006	-1-	-1-	
Jul 2007	-3-	-1- (two pulled)	
Jul 2008	-0-	-0-	
Aug. 2006	-0-	-0-	
Aug. 2007	-5-	-4- (one denied)	
Aug. 2008	-0-	-0-	
Sep. 2006	-0-	-0-	
Sep. 2007	-0-	-0-	
Sep. 2008	-2-	-0- (both pulled)	
Oct. 2006	-2-	-2-	
Oct. 2007	-2-	-2-	
Oct. 2008	-2-	-0- (both pulled)	
Nov. 2006	-0-	-0-	
Nov. 2007	-3-	-3-	
Nov. 2008	No meeting	n/a	
Dec. 2006	-2-	-2	
Dec. 2007	No meeting	n/a	
Dec. 2008	-2-	-1- (one tabled)	

Note: Forty seven (47) variance requests were considered by the Board; thirty four (34) were approved.

#### RESOLUTION NO.

WHEREAS, Austin has seen an increase number of trams being built on steep slopes in residential areas to access Lake Austin for recreational activity; and

WHEREAS, The City of Austin does not require permits for trams being built on steep slopes as necessary appurtenance to a boat dock; and

WHEREAS, Property owners are requesting approval for residential boat docks adjoining steep slopes to access the water from the Parks & Recreation Board; and

WHEREAS, The Parks & Recreation Board is concerned about the safety of the trams and the disturbance to the vegetation and stability of these steep slopes when building and altering trams;

## NOW, THEREFORE, BE IT RESOLVED BY THE PARKS & RECREATION BOARD OF THE CITY OF AUSTIN:

The Parks & Recreation Board recommends that the City Council consider amending the Land Development Code to require the review and permitting of the construction, and alteration of "Trams" within the City's jurisdiction.

ADOPTED	, 2009	ATTEST:	
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#### INTEROFFICE MEMORANDUM

TO:

ROLANDO FERNANDEZ, ASSISTANT TO THE CITY MANAGER

FROM:

SARA L. HENSLEY, DIRECTOR, PARKS AND RECREATION DEPARTMENT

SUBJECT: YEAR IN REVIEW - 2008

DATE:

1/19/2009

CC:

H.G. BERT LUMBRERAS, ASSISTANT CITY MANAGER

#### **NEW FACILITIES & PARK AMENITIES**

DEPARTMENT	Parks and Recreation Department	
PROJECT DESCRIPTION	Opening of New Facility – Gus "Gustavo" Garcia Recreation Center  The Austin Parks and Recreation Department coordinated the grand opening of the Gus "Gustavo" Garcia Recreation Center on Saturday, April 25th, 2008. The 18,500 square foot recreational facility located within the Windsor Hills neighborhood is providing recreational opportunities catering to the residents of the northeast community. Amenities include a 7,000 square foot gymnasium, computer lab, kitchen, dance studio, fitness room, arts and crafts room and activity room. Over 4,500 participants have enrolled in programs focused on health and fitness, youth sports, after-school enrichment, senior enrichment and adult sports leagues.	
MILESTONES/SUCCESS POINTS		
INTERNAL STAKEHOLDERS	Public Works, AIPP	
EXTERNAL ORGANIZATIONS	Neighborhood Associations/AISD	
NEXT STEPS FOR 2009	Staff will administer need assessments throughout the immediate neighborhoods, schools and area businesses to identify service delivery priorities. Currently, programming includes opportunities for preschoolers, youth, teens, adults and senior adults Monday-Thursday 9:00a.m9p.m., Fridays- 9:00a.m7:00p.m. and Saturdays 10:00a.m4:00p.m.	
IMPROVEMENT OPPORTUNITIES	To increase collaborations within the service area by contacting area schools, businesses and non-profits to leverage resources and enhance service delivery options.	

### NEW FACILITIES & PARK AMENITIES (CONT.)

PROJECT DESCRIPTION	Construction of Tennis Center	
MILESTONES/SUCCESS POINTS	The construction of the new Austin Tennis Center was completed. The Facility has 12 new courts and a pro shop.	
INTERNAL STAKEHOLDERS	None	
EXTERNAL ORGANIZATIONS	Austin Independent School District contributed \$950,000.00 towards the joint use facility.	
NEXT STEPS FOR 2009	None	
IMPROVEMENT OPPORTUNITIES	Potential expansion up to 32 courts when additional funding is identified.	

DEPARTMENT	Parks and Recreation	
PROJECT DESCRIPTION	Sparky Park	
MILESTONES/SUCCESS POINTS	A former Austin Energy substation that has been converted to a pocket park. The land was re-shaped and turned into an urban art park	
INTERNAL STAKEHOLDERS	PARD Operations and CIP/Planning staff. Austin Energy and Neighborhood Planning and Zoning Departments. Art in Public Places	
EXTERNAL ORGANIZATIONS	Neighborhood Association, Austin Parks Foundation	
NEXT STEPS FOR 2009	Exterior lighting, plantings, signage.	
IMPROVEMENT OPPORTUNITIES		

INTERNAL STAKEHOLDERS	All city departments are involved or have been invited in this effort, especially facility managers, Solid Waste enforcement, Watershed Protection, Water Utilities, and Forestry.	
EXTERNAL ORGANIZATIONS	Travis Audubon Society, National Wildlife Federation, Lady Bird Johnson Wildflower Center, Master Naturalists, University of Texas	
NEXT STEPS FOR 2009	Increasing input in landscape design for new public facilities, creating more model landscapes at PARD facilities, assisting in policy and Best Management Practices with regards to urban forests and invasive species.	
IMPROVEMENT OPPORTUNITIES	With increased wildlife habitat, there will need to be increased collaboration and interaction with BCP and HH for pest species, such as feral hogs, deer herds and coyotes.	

DEPARTMENT	Parks and Recreation Department (PARD)		
PROJECT DESCRIPTION	The Trail of Lights was a "GOING GREEN!" event for the first time is its history and served as the prototype for the City's new "green event initiative.		
MILESTONES/SUCCESS	PARD achieved the following successes with the Trail of Lights event:		
POINTS	<ul> <li>PARD staff collaborated with Austin Energy and Solid Waste Services in devising strategies to make the Trail of Lights as carbon neutral as possible.</li> </ul>		
	The Trail of Lights was powered by 100 percent renewable energy.		
	• The City invested in a global Dell program called "Plant a Tree for Me" to meet its carbon offset requirement for the use of petroleum powered installation equipment.		
	All other vehicles used by staff at the Trail were electric.		
	All parade vehicles were horse-drawn.		
	• Solid Waste Services trained dozens of volunteers to serve as recycling docents to encourage the public to use the recycling bins properly.		
	• PARD invested in a 10% increase in LED lighting for this nationally renowned lighting festival.		
	All concessions (food and port-a-cans) utilized recyclable materials.		
	All concession food stands recycled their cardboard and cooking oils.		
	• The Trail Guide was printed using recycled or recyclable paper and ink and distributed via the Austin American Statesman's established routes.		
	• The Trail of Lights was a "green" event without an increase in budgeted expenditures.		
INTERNAL STAKEHOLDERS	All PARD Divisions including Cultural Affairs (lead coordinators), Austin Energy, Solid Waste Services, Austin Police Department, Austin Fire Department, Austin EMT.		
EXTERNAL	Boy Scouts and Girls Scouts of America, Dell Inc.		

## INFRASTRUCTURE IMPROVEMENTS (CONT.)

DEPARTMENT	Parks and Recreation	
PROJECT DESCRIPTION	Installation and Replacement of two large Irrigation Systems at North Star Greenbelt and Pease Park.	
MILESTONES/SUCCESS POINTS	Meeting water conservation standards by reducing water usage. By using an automated system, labor hours for employees are being reduced.	
INTERNAL STAKEHOLDERS	PARD Staff	
EXTERNAL ORGANIZATIONS	General Public	
NEXT STEPS FOR 2009	Evaluate and model at other locations.	
IMPROVEMENT OPPORTUNITIES	Using available resources to model success again.	

#### **ENVIRONMENTAL SUSTAINABILITY**

DEPARTMENT	Parks and Recreation	
PROJECT DESCRIPTION	Tree Planting	
MILESTONES/SUCCESS POINTS	Planted over 2,400 trees in parks, medians and on the public right of way which help to reduce excess carbon dioxide in the atmosphere, help to mitigate the heat island effect, and help to increase property values and provide habitat for wildlife.	
INTERNAL STAKEHOLDERS	PARD Staff	
EXTERNAL ORGANIZATIONS	TreeFolks, volunteers	
NEXT STEPS FOR 2009	This year, the Urban Forestry program is taking a new approach to tree planting by installing tree groves, which are larger areas of trees planted to simulate a natural forest stand at varying densities. These tree groves involve planting different compatible species of different sizes and spreading mulch throughout. This technique increases survival of planted trees through protection from weather extremes, encourages natural regeneration of trees within the grove, defines use areas in parks, and it also reduces erosion and improves the soil.	
IMPROVEMENT OPPORTUNITIES	Involve partnerships and grants to model a success again.	

### DIRECT SERVICE & REVENUE IMPROVEMENTS

DEPARTMENT	Parks and Recreation	
PROJECT DESCRIPTION	DinoLand In 2005, the Austin Area Garden Council proposed bringing a dinosaur exhibit into the Zilker Botanical Garden. Following planning by staff from across the natural resources area of Central Parks Division, an agreement was drawn up that divided responsibilities and revenue from this project between the Garden and the Council. Attended by over 90,000 visitors, the 2008's three month exhibit "DinoLand" was a successful collaboration between the Parks and Recreation Department, Austin Independent School District, Austin Energy and the Austin Area Garden Council.	
MILESTONES/SUCCESS POINTS	Milestone 1: Grant requests to Junior League of Austin, Austin Community Foundation, and Austin Parks Foundation, are funded.  Milestone 2: Agreement with AISD to develop and provide field trips for all Title 1 schools 5th graders in Earth Science.  Milestone 3: Completion of new Escarpment Trail in the Garden, to host the dinosaur exhibit.  Milestone 4: The Hatching and the Extravaganza, two festivals, successfully host over 10,000 visitors and have ticket sales exceeding \$60,000.  Milestone 5: At Council directive, DinoLand offered a free AISD Day and hosts over 9,000 children and families, with activities provided by science specialists at AISD, program specialists at Austin Nature and Science Center, and UTeach students.	
INTERNAL STAKEHOLDERS	City Divisions: Parks and Recreation Department Austin Energy: Charles Posey	
EXTERNAL ORGANIZATIONS	Austin Area Garden Council president: Laura Joseph, in "Down the Garden Path" newsletter Austin Independent School District science team: Frieda Lamprecht, Elementary Science Curriculum Specialist The Great Outdoors Garden Center and Nursery: Tom Tinguely, Founder and President Austin Community Foundation Board member and Communicard owners Sylvia Acevedo	
NEXT STEPS FOR 2009	Post Event Evaluation	
IMPROVEMENT OPPORTUNITIES	The legacy of DinoLand is a true partnership between the city and the Austin Area Garden Council. Additional, a park's asset has increase use demographics, and much higher visitation. Strong collaborative ties with the Austin Independent School District promise future productive projects between PARD and AISD on behalf of our children.	

## DIRECT SERVICE & REVENUE IMPROVEMENTS (CONT.)

DEPARTMENT	Austin Parks and Recreation Department		
PROJECT DESCRIPTION	Adult and Youth athletics		
MILESTONES/SUCCESS POINTS	<ul> <li>Success / Project Description:         <ul> <li>2008 Austin Softball Association Total Team</li></ul></li></ul>		
INTERNAL STAKEHOLDERS	PARD –all divisions		
EXTERNAL ORGANIZATIONS	♦ Texas Amateur Athletic Federation, American Softball Association, United States Specialty Sports Association, Hershey's Track and Field		
NEXT STEPS FOR 2009	Expansion of services to include youth sports camps and clinics targeting middle-school girls. Also hosting the ASA annual meeting in September, 2009.		
IMPROVEMENT OPPORTUNITIES	Identifying best practices and industry standards as they relate to state-wide tournaments.		



#### **MEMORANDUM**

TO: Sara Hensley, Director

Parks and Recreation Department

FROM: Victoria J. Li, P.E., Director

Watershed Protection and Development Review Department

**DATE:** December 19, 2008

SUBJECT: Request for Use Agreement Across Parkland

Lakewood Drive Low Water Crossing at Bull Creek Park FDU 4860-6307-2501; eCapris project ID # 5754.026

The Watershed Protection and Development Review Department requests a permanent and temporary use agreement for the construction of a proposed low water vehicle and pedestrian crossing across Bull Creek for Lakewood Drive, which is within Bull Creek Park. Attached are the following documents for your use and consideration to support this request:

- A. General Location Map,
- B. Information Packet,
- C. Tree Survey, and
- D. Field Note descriptions.

From these documents, you will note that the permanent use portion of the proposed agreement contains a total of 6,823 square feet (0.157 acre) for an expansion of the permanent right-of-way, and 2,832 square feet (0.065 acre) for the temporary staging area easement.

The low water crossing upgrade project includes construction of approximately 526 linear feet of new roadway (120 linear feet is concrete bridge deck), consisting of two 14-foot wide vehicle lanes and one 6-foot wide pedestrian sidewalk. The bottom of the bridge will be about 3.5 feet above the existing creek bed. The pedestrian walkway will be separated from the vehicle lane by a 9-inch high curb. Due to the existing water and wastewater infrastructure at this location, the edge of the bridge with the walkway will extend just outside of the existing right-of-way, and therefore we must request the addition of a narrow strip of right-of-way to the existing roadway.

The majority of the staging for the project will occur within the right-of-way of Lakewood Drive, south of the creek (toward RR 2222), but a small parking area within the park will be cut-off from public access, and we request that area as a temporary easement for the Contractor to use as a staging area.

Director of Parks and Recreation Department December 19, 2008 Page 2

The majority of the park will not be affected by the proposed construction, and access from Loop 360 will not be impacted by the proposed project. The established parking area north of the creek crossing will remain open and available to park users.

The construction method proposed for the bridge will require very little impact to the site, consisting of only drilled foundation piers that will support the bridge structure and deck. No excavation or disturbance of the rock surface within the limits of construction is planned, and the creek will be returned to natural condition (the current pavement will be removed).

The bridge will be maintained by Public Works Street & Bridge Division.

Watershed Protection Department, in cooperation with the Austin Water Utility, Public Works Street & Bridge staff, and Parks and Recreation Department staff, have agreed that the proposed location is the most feasible and prudent alternative for installing the bridge. All reasonable planning efforts have been taken to minimize harm to the area. All construction and site restoration for the project will be completed in accordance with the Standard Specifications and Construction Standards of the City of Austin. All construction and site restoration will be completed in accordance with PARD's Construction in Parks Specifications.

We request that the necessary documentation be prepared for consideration of this request by the Parks and Recreation Board. We expect to present this information to the Land and Facilities Committee on January 12, 2009 and plan to make a presentation to the Parks and Recreation Board at their January 27, 2009 meeting to seek their concurrence with the requested land use agreement.

If you have any questions or need any additional information, please feel free to contact the project manager Stan Evans, P.E., PMP at phone number 974-3778.

Victoria J. Li, P.E. Director

Watershed Protection and Development Review Department

Attachments: Chapter 26 Info Packet

CC: WPDRD: Roxanne Cook, Mapi Vigil

PARD: Stuart Strong, Ricardo Soliz, Tino Garcia

AWU: Bob Lamb, Mike Russ PWD/S&B: David Magana

CLMD/RES: Junie Plummer, Marsha Schulz

DEC: Tom Arndt, Lina Soutdarany



### **Information Packet**

**Chapter 26 Land Use Agreement** 

## Lakewood Drive Low Water Crossing of Bull Creek at Bull Creek Park

FDU 4860-6307-2501 eCapris sub-project # 5754.026

December 19, 2008

Submitted by

City of Austin
Watershed Protection and Development Review Department

#### INTRODUCTION

The Watershed Protection and Development Review Department plans to construct a new bridge over Bull Creek in order to upgrade the existing Lakewood Drive vehicle crossing on the bed of the creek. This will be a much safer manner to cross the creek for vehicles, bikes and pedestrians and will also eliminate the existing contamination of the creek water from the vehicles that now drive into the water. Currently, the roadway must be closed for almost all rain events, due to high water crossing the roadway. Although the bottom of the bridge will only be about 3.5 feet above the existing creek bed, the proposed bridge would only be closed to traffic during larger storm events. The length of new pavement will be approximately 526 linear feet with 120 linear feet of that for the new concrete bridge deck. The new pavement will consist of two 14-foot wide vehicle lanes and one 6-foot wide pedestrian sidewalk. The pedestrian walkway will be separated from the vehicle lane by a 9-inch high curb. Due to the existing water and wastewater infrastructure at this location, the pedestrian walkway portion of the bridge will extend just outside of the existing right-of-way, and therefore we must request a narrow (12.92 feet) strip of permanent right-of-way to be added to the existing right-of-way of Lakewood Drive.

The majority of the staging for the project will occur within the right-of-way of Lakewood Drive, south of the creek (toward RR 2222), but a small parking area within the park will be cut off from public access due to the fencing of the work site, and we request that small area be granted as a temporary easement for the Contractor to use as a turnaround and additional staging area. Storage of materials will be staged outside of the 100-year flood plain.

This authorization will require action by the City pursuant to Chapter 26 of the Texas Parks and Wildlife Code. The proposed bridge upgrade work within parkland consists of only the request for permanent 12.92 foot wide right-of-way and the small temporary staging area on existing parking area. The majority of construction activity for the bridge and the approaches will occur within the right-of-way of Lakewood Drive. The construction will have minimal surface impacts to the creek and will have no surface impacts within the parkland.

#### PROJECT NEED AND JUSTIFICATION

The low water crossing on Lakewood Drive at Bull Creek has been a subject of many public safety discussions. Upgrade of the low water crossing was identified as a very high priority in the Watershed master plan, due to the depth and velocity of flows over the existing roadway during and after rain events. The existing road uses the bed of the creek for the crossing. This results in a closure of the roadway for several hours to days for any significant rain event (from 2004 into 2007, there were 70 closures of the road for a total of 26 days). This is primarily a safety issue, but will create environmental benefits by removing the vehicles that now drive in the creek. The proposed bridge is needed to upgrade the crossing of Bull Creek.

#### ALTERNATIVES TO THE USE OF PARKLAND

There is no alternative for the Lakewood Drive right-of-way crossing of the creek.

#### PROJECT DESCRIPTION AND SCHEDULE

The low water crossing upgrade project includes construction of approximately 526 linear feet of new roadway consisting of two 14-foot wide vehicle lanes and one 6-foot wide pedestrian sidewalk. The bottom of the bridge will be about 3.5 feet above the existing creek bed. The concrete bridge deck will consist of three (3) spans on drilled concrete piers and will extend 120 linear feet between the abutments.

The pedestrian walkway will be separated from the vehicle lane by a 9-inch high curb. There is an existing 48-inch water transmission main that must be a minimum of five (5) feet from the edge of the bridge, which sets the location for the bridge. As a result, the edge of the bridge with the walkway will extend just outside of the existing right-of-way, and therefore we must request the addition of a narrow strip of right-of-way to the existing roadway. There is also a 60-inch wastewater interceptor which will be straddled by the bridge piers. At the request of the Austin Water Utility, a new manhole will be built on the wastewater line within the right-of-way.

The project design will be completed in the spring of 2009, followed by the various permitting actions which will extend to the fall of 2009. Many permit matters have already been completed, including Texas Historical Commission (THC). We have received clearance for Balcones Canyonland (BCP). The US Army Corps of Engineers does not require notification (PCN) since there is no fill used in the project, and the project is therefore eligible for coverage under the Nationwide Permit (NWP). Upon completion of the City permit requirements, the project will be advertised for bids. After bid opening and contract award, the project is expected to begin construction in the early months of 2010. The construction activity should be substantially completed within six to nine months (Fall 2010). The temporary staging easement is requested for a period of 270 calendar days (9 months).

#### SHORT TERM EFFECTS OF CONSTRUCTION

Short-term effects during construction will be limited to the necessary closure of Lakewood Drive on the south side of the creek which will then be used as the work zone. There will be limited impact to a few trees that fall within the right-of-way, but we have already received permission of the City Arborist for the needed trimming. The construction will not interfere with any park functions, other than limiting access to be only from Loop 360 during construction. There will be very limited disturbance to the creek bed for the installation of the bridge support piers and abutments, but a positive impact will be the removal of the existing pavement on the creek bed and in the future, no vehicles will be driving in the creek. No riparian disturbance is expected.

#### LONG TERM EFFECTS OF CONSTRUCTION

The only long-term effects to the parkland as a result of the proposed construction, operation and maintenance of the low water crossing will be the addition of the narrow (12.92 feet) strip of permanent right-of-way (total area is only 0.157 acre) to the existing right-of-way. The inclusion of the six (6) foot wide pedestrian walkway will greatly enhance the safety and accessibility of park users and biking enthusiasts who wish to cross the creek. The walkway will be raised nine inches above the vehicle surface, and will thus provide some protection to the pedestrians. The walkway will connect the two parking areas in the park.

#### RESTORATION PLAN

There will be no significant parkland disturbance as a result of the proposed work. The edges of the work zone will be restored and revegetated to a condition equal to or better than that which existed prior to construction.

A detailed tree survey and evaluation were performed by the engineer and is attached hereto. That survey determined that only a few trees will be affected by the construction. Trees adjacent to or within the work zone will be protected per standard requirements. Should any viable tree be damaged, the project will provide replacement planting in accordance with PARD's *Construction in Parks Specifications*.

All site restoration will be completed in accordance with the Standard Specifications and Construction

Standards of the City of Austin. All construction and site restoration for that portion of the project within parkland will also be completed in accordance with PARD's Construction in Parks Specifications.

As with all City construction projects, the Contractor will be required to provide a one-year warranty of his work including restoration, revegetation and tree replacement.

#### ATTACHMENTS:

Location Map of Bull Creek District Park and the Lakewood Drive low water crossing

Rendering of the Proposed Bridge crossing of Bull Creek

Photo Map of the existing crossing showing the existing ROW and requested strip of ROW to be added, along with the proposed manhole and the temporary staging area

Two photos of the existing crossing – note lower photo shows the tree (across creek) to be trimmed

Info on road closures 2004 into 2007

Exhibit of flood boundary in Bull Creek Park for a 2-year event (existing, and after bridge installed)

Cross-section detail of the proposed bridge

Drawing of the proposed bridge plan and profile

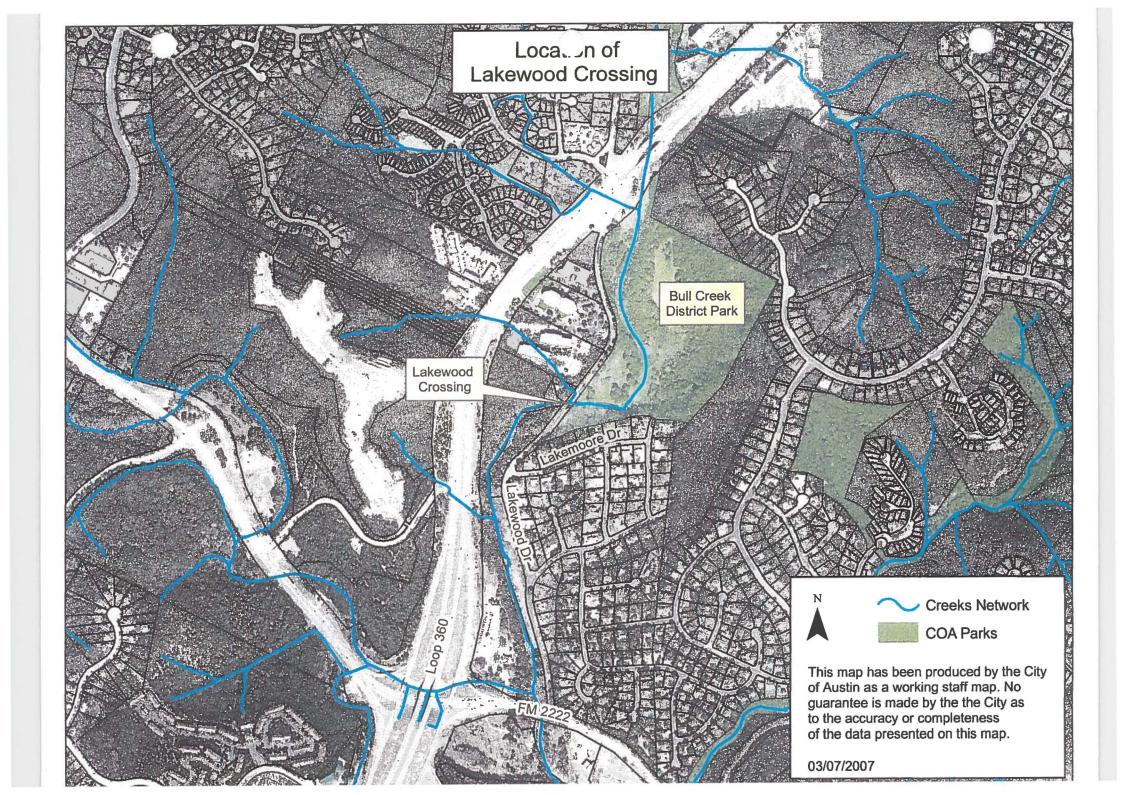
Plan and Profile drawings of the proposed bridge - engineer scale (2 pages – note match line)

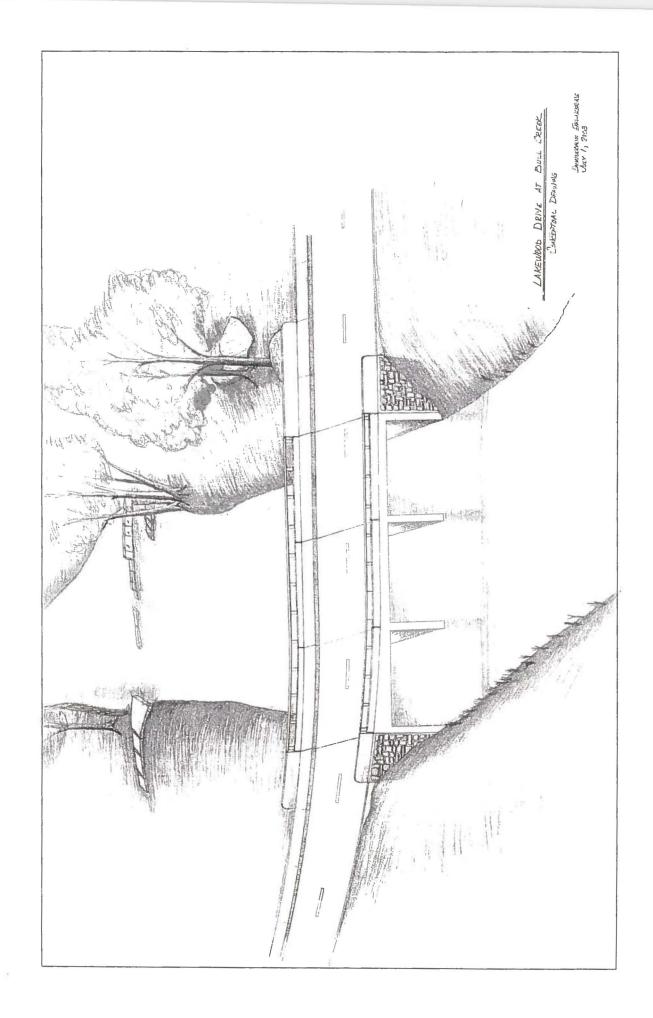
Tree Survey

Arborist approvals for trimming one tree and removing another tree (2 pages)

Project Schedule

Field Notes for the strip of permanent ROW, and for the temporary staging area











#### Lakewood Drive at Bull Creek Low Water Crossing

Information requested by Victoria Li at May 7, 2007 meeting:

#### 1. Frequency of road closures at Lakewood Drive.

	2004	2005	2006	2007 *
Number of	37	8	7	18
Closings				
Longest ,	16	3	4	3
Longest Duration (days)				

<sup>\*</sup> Through July 4, 2007

#### 2. Public Works Position

The Public Works Department does not support permanently closing roadways because it cuts off a currently open traffic pathway. David Gerrard, Division Manager, Transportation Engineering, stated that the City Manager has indicated that closing roadways is not preferred for the same reason. Further, City Council was informed at a Council meeting on January 11, 2007, that Public Works does not support closing Lakewood Drive in regards to the TxDOT FM 2222 roadway improvement project.

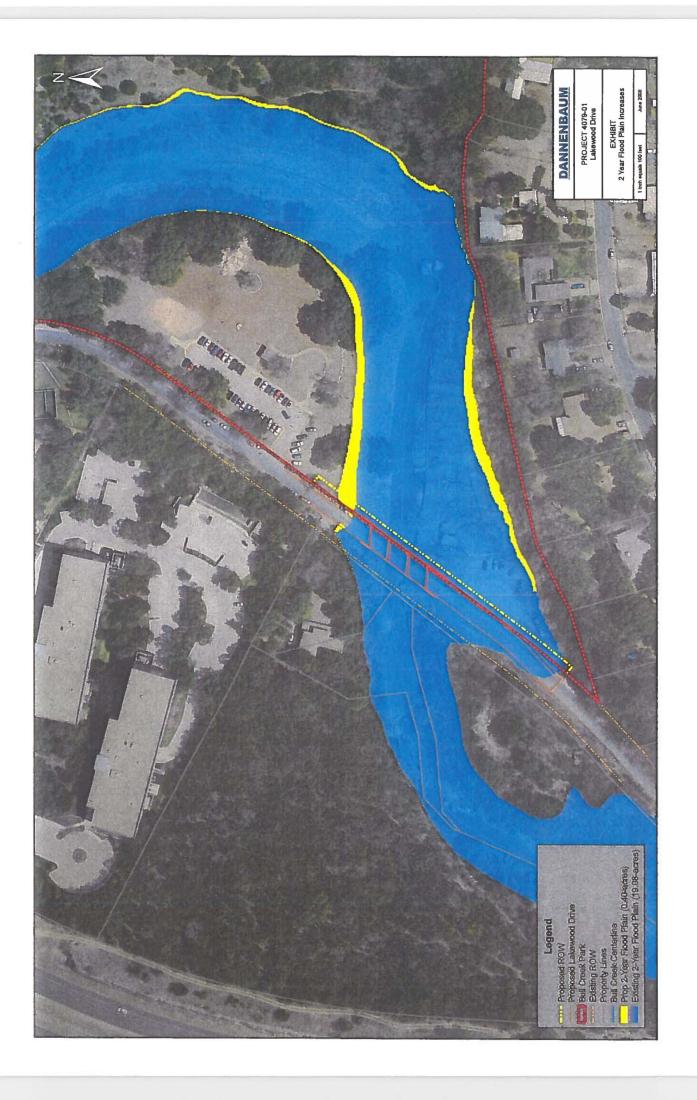
Victoria Li asked if the bridge upgrade would increase traffic volume on Lakewood Drive. Mr. Gerrard (Transportation Engineering) indicated that Public Works does not anticipate any significant change to traffic volumes on Lakewood Drive if the bridge is constructed.

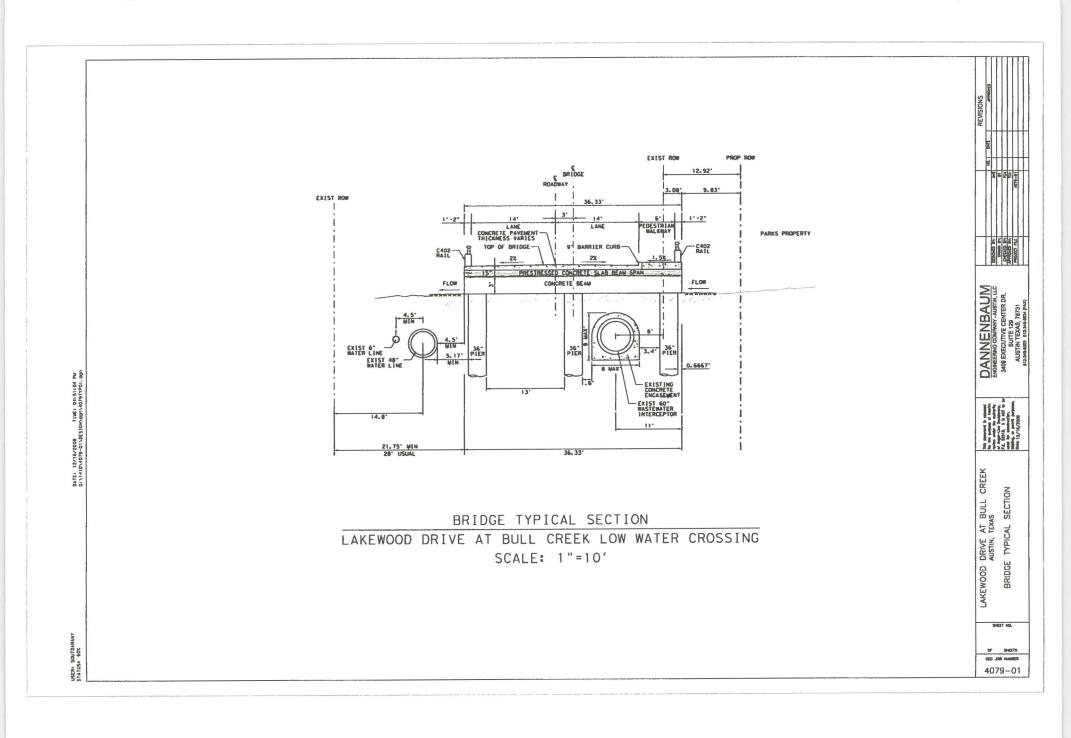
#### 3. Explanation of the flood hazard scores and why Lakewood Drive ranked so high.

Lakewood Drive Ranked number 7 in the original Master Plan Flood scores. The public safety component of the score is the reason for its high ranking, due to the low water crossing at 2222 and Lakewood Drive. The scoring system considered depth and velocity of floodwaters for the 2-100 year storm events. This flood threat is referenced in the original Master Plan document, on page 4-16. This stream reach has maintained the very high priority rank through the updated prioritization that is part of the WPDRD FY 08 CIP budget process.

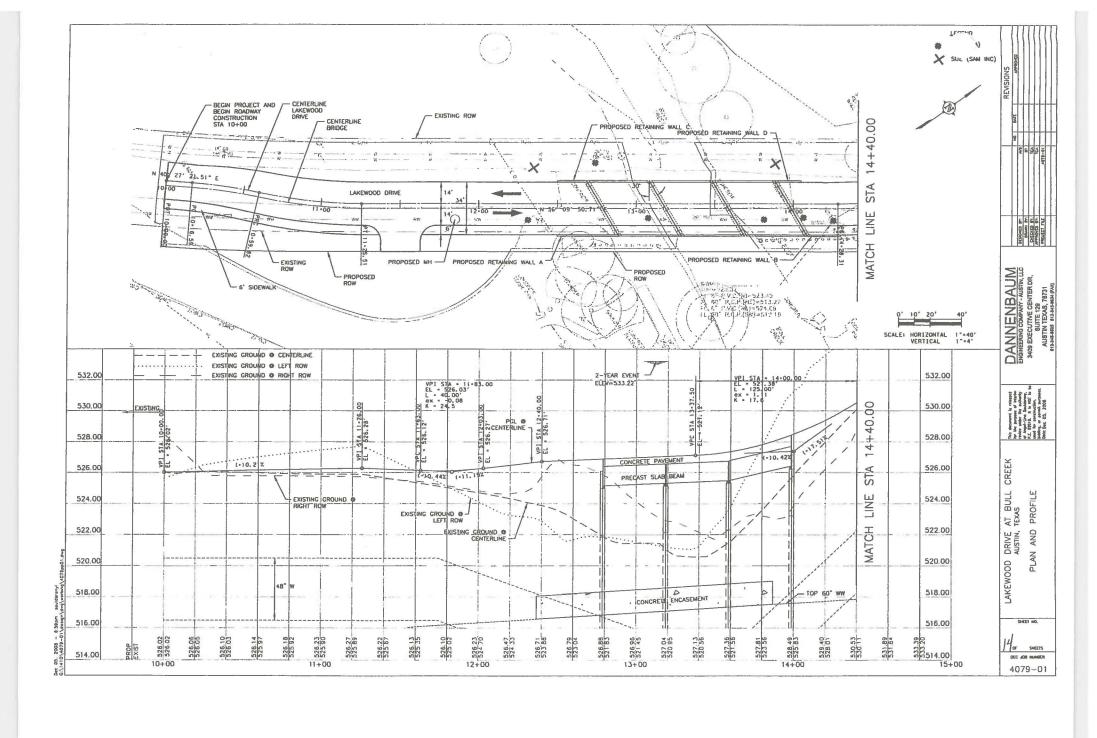
#### 4. What are other projects on the list that would be funded if Lakewood was not.

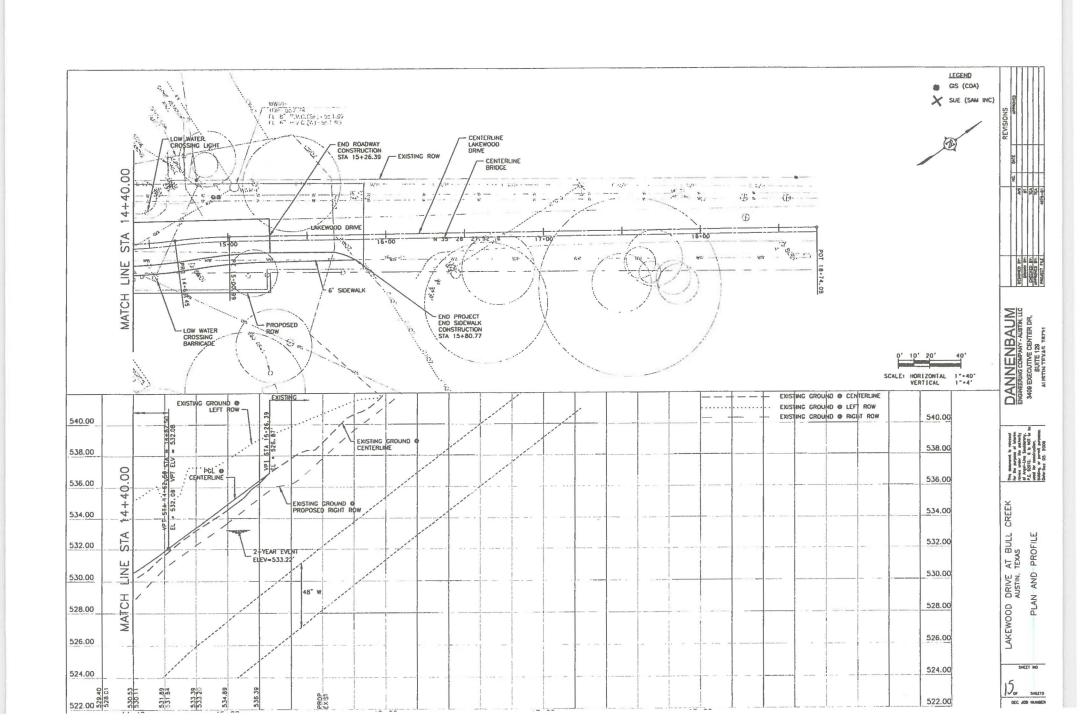
This project is primarily (greater than 80-percent) funded through the Regional Stormwater Management Program (RSMP) fees collected in the Bull Creek watershed. RSMP funds can only be used for flood hazard mitigation projects in the watershed where the fees were collected (Bull Creek in this case). The other Master Plan projects that could be funded using RSMP funds are low water crossings that are in Travis County or other projects that have a much lower priority than Lakewood Drive.





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DESCRIPTION OF THE CONTRACT OF

DANNENS COMPAY - AUSTN, LLC
3408 DECUTTRE CENTER DR.
BUTTE 129
ALISTIN TEXAS 78721

Tree Ordinance Review Application City of Austin Founded by Congress, Republic of Texas, 1839 Watershed Protection and Development Review Department Paid: Yes/No One Texas Center, 505 Barton Springs Road P.O. Box 1088, Austin, Texas 78767 Receipt Number. Phone: (512) 974-1876 Fax (512) 974-3010 Inspection Date: This application requests (specify all that apply): removal of a protected-size tree; development exceeding allowable standards for encroachment in the critical root zone2; removal of more than 30% of a tree's crown2. Additional tree information may be obtained from the Land Development Code (25-8), Environmental Criteria Manual (Section 3), or the City of Austin Urban Forestry web page (http://www.ci.austin.bx.us/trees/). Applicant understands that encroachment in the critical root zone, or removal of canopy, may threaten the health of the tree and that approval of this application does not guarantee the continued health of the tree. Please attach an aerial drawing that includes the location of the tree, proposed development, and utilities. The application and payment (check to the City of Austin for \$25 per tree) can be mailed or delivered to the above addresses. Payment must be made prior to City personnel completing this application. If relevant, check and initial the following box to indicate that the fee is to be applied to the building permit (i.e. escrow payment). Address of Property (Including zip code): 6701 Lakewood Drive, Austin, Texas 78731 Name(s) of Owner and Applicant: City of Austin (Owner-PARD), David Sperry (Applicant-Baer Engineering and Environmental Consulting, Inc.) Building Permit Number (if applicable): Fax Number: 512.453.3316 Telephone Number: <u>512.453.3733</u> Type of Tree: Carva illinoinensis Location on Lot: Near roadway Trunk Circumference (inches around) at 4 1/2 Feet Above Ground: General Condition: Tree tagged 221 Reason for Request: Road construction to build an elevated roadway over Bull Creek. Carya's crown will likely be trimmed >30% for roadway clearance but not removed. TO BE COMPLETED BY CITY ARBORIST \*Approved With Conditions Statutory Denial (more information required) Approved Denied I Comments: Conditions of Approval: None; As described within Arborist Comments (see above); and/or, Applicant agrees to plant NA caliper inches, container grown, City of Austin Class Tyrees (i.e. Live Oak, Cedar Eim, Mountain Laurel) on the lot prior to obtaining a Certificate of Occupantly (trees are to be a minimum of two inches in caliper width). Prior to development, applicant agrees to supply a root zone mulch layer and maintain tree protection fencing (chain-link, five-foot in height) providing the utmost root zone protection.

Owner/Applicant Signature

Date

City Arborist Signature

## Tree Ordinance Review Application

City of Austin Founded by Congress, Republic of Texas, 1839 Watershed Protection and Development Review Department One Texas Center, 505 Barton Springs Road Paid: Yes/No P.O. Box 1088, Austin, Texas 78767 Receipt Number. Phone: (512) 974-1876 Fax: (512) 974-3010 Inspection Date: Navember 2005 This application requests (specify all that apply): x removal of a protected-size tree; development exceeding allowable standards for encroachment in the critical root zone2; removal of more than 30% of a tree's crown2. Additional tree information may be obtained from the Land Development Code (25-8), Environmental Criteria Manual (Section 3), or the City of Austin Urban Forestry web page (http://www.ci.austin.bx.us/trees/). Applicant understands that encroachment in the critical root zone, or removal of canopy, may threaten the health of the tree and that approval of this application does not guarantee the continued health of the tree. Please attach an aerial drawing that includes the location of the tree, proposed development, and utilities. The application and payment (check to the City of Austin for \$25 per tree) can be mailed or delivered to the above addresses. Payment must be made prior to City personnel completing this application. If relevant, check and initial the following box to indicate that the fee is to be applied to the building permit (i.e. escrow payment). Address of Property (including zip code): 6701 Lakewood Drive, Austin, Texas 78731 Name(s) of Owner and Applicant: City of Austin (Owner-PARD), David Sperry (Applicant-Baer Engineering and Environmental Consulting, Inc.) Building Permit Number (if applicable): Telephone Number: 512,453,3733 Fax Number: 512.453.3316 Location on Lot: Near roadway Type of Tree: Celtis laevigata Trunk Circumference (inches around) at 4 ½ Feet Above Ground: 47 inches General Condition: Tree tagged 203 Reason for Request; Road construction to build an elevated roadway over Bull Creek. Celtis will be removed during roadway improvements. Owner/Applicant Signature TO BE COMPLETED BY CITY ARBORIST \*Approved With Conditions | Denied | Statutory Denial (more Information required) As described within Arborist Comments (see above); and/or, \*Conditions of Approval: None; Applicant agrees to plant 10 caliper inches, container grown, City of Austin Class 1 trees (i.e. Live Oak, Cedar Elm, Mountain Laurel) on the lot prior to obtaining a Certificate of Occupancy (trees are to be a minimum of two inches in caliper width). Prior to development, applicant agrees to supply a root zone mulch layer and maintain tree protection fencing (chain-link, five-foot in height) providing the utmost root zone protection.

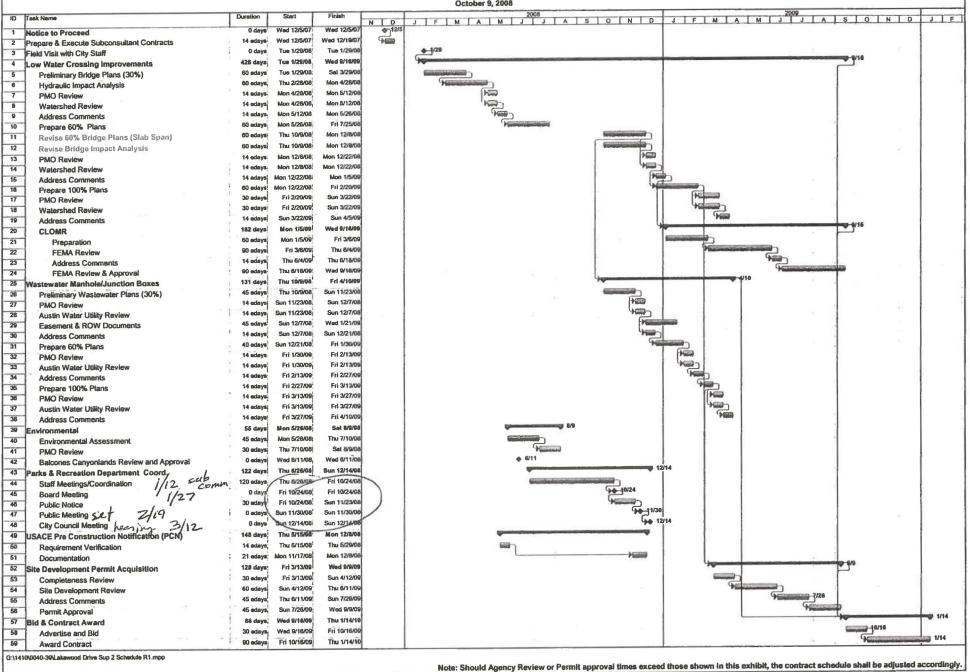
Owner/Applicant Signature

Date

City Arborist Signature

Date

# Exh..... 9 City of Austin Lakewood Drive Low Water Crossing Improvement Project Design/Bid Schedule Revision 11 October 9, 2008



#### Nicholas Dawson Park

- •Located in 78704 along the banks of East Bouldin Creek
- •Over 2.25 acres of developed park property along with a natural greenbelt and tree preserve adjoining the creek
- •A quintessential neighborhood pocket park and nature trail purchased from the Dawson family in parcels beginning in 1982
- •Officially adopted by the BCNA who have provided care and custodianship of the park for years

## South Austin Neighbors Value the Park, an Environmentally Sensitive Urban Greenbelt

- ·As a destination
- ·As a place to play
- •As a place to walk through
- ·As a place to garden and nurture

### Minimizing damage to Live Oak tree roots

- •Pushing proposed new trench away from tree roots should lessen impact to City trees
- •Manhole installed near this site is located in old street right-of-way and abandoned bore pit and will be submerged 12" below grade
- •Street Right-of -Way abandonment is essential for the health of the park and adjoining City trees. This process needs to begin immediately so it can be completed before expected exit date from parkland.

## Proposed Trench Would Follow The Middle of the Existing Path

- •Currently the path is lined with a mixture of invasive species & Class 1 trees:
- -American Elms
- Live Oaks & Red Oaks
- -Pecan
- •Some Class 1 trees will experience serious CRZ loss. Tree # 6 is at risk.
- •Measures need to be taken to reduce the root loss such as hand tunneling a length of 12' under root ball
- •Invasive species will need to be removed in Fall 2009 to aid Class 1 tree recovery

## Trench Ends in Areas Already Cleared of Most Vegetation

- •Use of small equipment such as (bobcats, small track hoes) to avoid aerial tree damage
- •Manhole Cover submerged 12" deep
- •Reseed with native grasses, wildflower mix as well as revegetation of existing natives shrubs and trees such as:
- -Agarita

- Texas Persimmon
- -Mountain Laurel
- American Elm

Avoid Live Oak Wilt Transmission and Provide Extra Park Restoration Funding

Live Oaks & Red Oaks susceptible to oak wilt disease are present in park

•Trench Work should be done under supervision of a certified arborist and at optimum times of the year to avoid live oak wilt transmission.

•We are asking additional funds transferred to PARD for the restoration of the area due to open trenching and extra manhole installation

As many as 13 Class 1 trees will be directly impacted by the trench and 7 others are impacted by the LOC

•Extra funding of \$ 20,000 over and above MOU 07-009 needs to be added

# **Taking Care Afterwards**

- •Replace severed waterline to hose bib at West James St.
- •Temporary irrigation lines for revegetation of tree & plants is required
- •Historically, water run-off at West James St. dead-end has created significant erosion
- Erosion control critical
- -Erosion cloth at Manhole 19
- -Erosion berms & Erosion logs preferred over silt fence
- -Trail erosion with run-off control



#### TECHNICAL MEMORANDUM

### **ACWP South 2nd Street Project, North Phase**

Summary of the Alternatives and Impacts Evaluated for the Revised Alignment of Line C Along the Nicholas Dawson Park Path from James Street/ S. 3<sup>rd</sup> Street to Junction Point at MH 19

#### **OVERVIEW**

Constructability issues have halted progress on wastewater Line C through Nicholas Dawson Park. The contractor has encountered groundwater that was not anticipated based on earlier geotech work, making the boring operation that was underway nearly impossible to complete. In an effort to recover the schedule and continue the City's critical progress, alternate alignments and construction technologies were considered. The goal was to determine if some combination of revised alignment or construction method could move the project forward in order to meet the EPA's June 2009 deadline and avoid severe financial penalties (The program's internal deadline is end of March 2009). Three options were considered, and *Exhibit A* shows the final recommended alignment for the revised open-cut Line C through Nicholas Dawson Park and includes two photographs looking east and west from roughly the midpoint of the line. The recommended alignment was developed based on input received from stakeholders and represents a general consensus reached through discussions with those stakeholders, including the following:

- Representatives of the Bouldin Creek Neighborhood Association (BCNA)
- Representatives of the BCNA Parks Subcommittee
- Austin Water Utility, AWU
- Watershed Protection and Development Review Department, WPDRD
- Environmental Resource Management, ERM (part of WPDRD)
- Parks and Recreation Department, PARD
- Austin Clean Water Program, ACWP
- Design Engineer, Binkley and Barfield
- Contractor, Laughlin Thyssen

The recommended option has the least adverse impact on Nicholas Dawson Park and its users, while still meeting all City Ordinances and standards of environmental care, while providing a responsible engineering design. The alignment presented herein represents the design solution that meets the goals of the stakeholders, while also maintaining the Utility's ability to meet critical project parameters including budget and schedule and meet the EPA mandate to halt sewer overflows by June 2009 in this priority neighborhood area.



Critical criteria used to define the design options that were evaluated include:

- Utilizing the existing, cleared Parks trail if possible, as the alignment of choice.
- Choosing an option that could be constructed working from low to high, rather than working down into the groundwater.
- Limiting removal of trees in the park and limiting impact to those trees that will remain.
- Limiting impact to the flow patterns of the spring and seeps known to exist in the area.
- Maintaining the natural character of the park by not leaving large utility structures visible.
- Utilizing as much of the existing wastewater system as possible to limit cost to the City.

The following sections of the technical memorandum provide the project background along with an overview of the original design data and construction issues that catalyzed the need for an alternative alignment evaluation. The following section also includes the evaluation of alternatives and their impacts and concludes with the consensus recommendation which has been identified to have the least impact while meeting the requirements of the project and has the least potential for failure.

#### AUSTIN CLEAN WATER PROGRAM BACKGROUND

ACWP Primary Purpose: EPA AO Mandate - Eliminate Sanitary Sewer Overflows ACWP Secondary Purpose: Removal of wastewater lines from creeks

The purpose of the project is to construct new wastewater lines to replace aging lines that historically leak raw sewage into our creeks and yards. These sewer overflows present a serious threat to public health and the environment. The wastewater line improvements are part of the work that the City must do to respond to an Environmental Protection Agency Administrative Order, which requires replacement of specific portions of the City's wastewater infrastructure to prevent future sewer overflows. The overall deadline set by the EPA for the wastewater line improvements is June 2009. If the City does not meet the deadline, the financial penalty is \$27,500 per overflow per day.

#### PROJECT BACKGROUND

The ACWP Govalle 1, South 2<sup>nd</sup> Street Re-Route and Area Improvements, North Phase, Barton Springs to Monroe is one of approximately 100 projects included in the ACWP. This north phase is one of three phases of construction. The Town Lake Park phase is already complete, to the north of this project. The south phase is already complete, to the south of this project. This project required the purchase of approximately 60 easements, 3 parks properties and includes over 3 miles of wastewater line. The groundwater issue encountered at Nicholas Dawson park is at approximately the midpoint of this project.



#### ORIGINAL DESIGN AND ALIGNMENT

The 90% plans included a large 35' x 35' excavation inside the park at manhole 19. This pit would function as a large working pit and the contractor would work outwards in three directions to accomplish the tie-in of all lines at this point. This pit would allow the contractor to bore or tunnel uphill along each alignment. During negotiations with the BCNA and PARD, the construction plans were revised to show instead a small pit in the park, with three larger pits outside the park. This allowed the contractor to work from three locations at the same time and, based on geotechnical data available at the time, appeared to be a feasible option.

The smaller pit inside the park also accomplished the goals of the neighborhood, including

- limited tree removals and limited damage under the massive oak tree just north of the pit
- · utilized trenchless technology within the park, lessening impact to tree root zones
- allowed the use of the cleared path as the only construction access point,
- resulted in the contractors ability to work 3 crews at once, limiting time the park would be closed to 3 months or less.

The new design was presented to Parks Board and approved by City Council through the Chapter 26 process, including public hearings and advertisements as required by State law.

#### **Boring Logs Obtained During Design Phase**

During the design phase for this project, 6 geotechnical borings were taken in proximity to the park. None of those 6 borings showed groundwater to be encountered during drilling. The boring logs show gravels and clays over weathered limestone of the Austin group. The Austin group is generally over the Eagle Ford formation where the borings went to depths sufficient to encounter the Eagle Ford.

**Exhibit B** includes a copy of the boring logs taken and evaluated during the design phase of the project. The project included six logs in the area including bores at the proposed pit locations.

# **Springs Mapped During Design Phase**

A known spring, called the "El Mercado" spring by City staff is shown in City records. This spring was mapped on the plans and a 75' buffer zone shown as a critical setback. This spring flows out of an RCP pipe believed to be a storm sewer pipe with bedding that is channeling the groundwater to that point. There are also a couple of minor seeps in the park generally along the south bank of the creek, and generally north of our construction area.



# SUMMARY OF CONSTRUCTION ISSUES ENCOUNTERED AND THE NEED FOR RE-ALIGNMENT OF LINE C

As construction proceeded along Line C, the contractor excavated the bore pit at James and South 3<sup>rd</sup> and began jacking and boring pipe downhill to the east. The pit was dry upon excavation. Approximately 70 feet into the downhill bore, the contractor encountered groundwater. The groundwater was artesian and flowed uphill up the pipe and then proceeded to fill the pit about 3 feet deep, causing all equipment necessary for the work to be covered in water. This groundwater makes it extremely difficult, slow, and costly to continue construction at a downhill slope. The contractor notified the ACWP of the groundwater on Monday January 12, 2009.

#### **Timeline For Response to Groundwater Issue**

City and ACWP staff have worked diligently to resolve the issues and present an alignment meeting all major criteria in a very short time spanning less than two weeks. The following dates and meeting are notable steps taken to address all stakeholders criteria and goals during this rapid response phase:

- Tuesday, January 13, 2009, at 8 am.: The City's hydro-geologist Scott Hiers visited the site and conducted field tests to determine the source of the groundwater. Scotts email summarizing the data collected is attached in *Exhibit C*. Sharon Hamilton and BCNA representatives were present at this meeting. As the project moves forward, the ACWP team will continue to request involvement from ERM and WPDRD on environmental issues.
- Tuesday, January 13, 2009, at 10 a.m.: ACWP staff and COA staff met with the contractor to solicit proposals and input for options available to move the work forward. The contractor identified the option of open-cutting the line within the cleared path from the end of the existing bore towards the east to MH19 (the "blue" option).
- Wednesday January 14, 2009, at 9 am: Sharon Hamilton met with Ricardo Soliz to review the possible alignment changes and parks impacts. Ricardo Soliz suggested that working with the neighbors to achieve consensus would be paramount to successfully changing the design.
- Thursday January 15, 2009, at 1:30 pm: Sharon Hamilton met with John Bowman (inspector) and Don Primosic (engineer) to suggest proposed changes to "blue" alignment that included not utilizing the installed bore, but rather open cutting from South 3<sup>rd</sup> straight to manhole 19 (resulting in the "red" option). This option allows a shallower line to be installed, speeding construction. The engineer agreed that this option was acceptable and that he would produce a plan and profile sketch of this alignment.
- Monday January 19, 2009, at 1:00 pm: Sharon Hamilton met with Ingrid Weigand and Matt Coldwell at Nicholas Dawson Park to present the two open-cut options that had been discussed and obtain BCNA input. The BCNA reps wanted to see a tunnel option presented and know the cost difference that the COA would be facing with such an option. The neighbors also requested that historical geotechnical information be reviewed to determine why groundwater was not anticipated.
- Tuesday January 20, 2009 the contractor provided a trenchless option (the "green" option) after reviewing with sub-contractors what methods could be utilized to allow the line to stay in its



- current alignment. Sharon Hamilton met at 4 pm at the park with Stuart Strong, Robert Brennes, Ricardo Soliz and Beau Tinsley to review the three proposed alignments, their costs, and their impacts to trees. The PARD staff generally preferred the red alignment. Stuart suggested that an arborist should review the plans to see if the tree impacts were clearly understood.
- Thursday January 21, 2009, at 11 a.m.: Sharon Hamilton met with Walter Passmore and Beau Tinsley at the park to review tree impacts. Walter Passmore stated that he felt all trees had a very limited impact due to open cut along the trail, with the exception of tree #6 that likely had a serious impact. Walter stated that we could chemically treat the trees 1 through 9 to bolster their chances of quick recovery from impacts. Walter's email is included in *Exhibit D*.
- Friday January 23, 2009, at 7:00 pm: ACWP and COA AWU and COA PARD staff met with BCNA representatives to review the red, blue and green options, their costs and impacts and to solicit the BCNA support of the red option. The BCNA reps provided considerable input into the red option that would allow slight changes to increase the likelihood of tree survival and limit the impacts to the Parks. The AWU agreed to allow the manhole lids to be buried up to one foot deep to limit the impact on the natural character of the park. The AWU agreed to provide some form of "insurance" policy in the form of financial mitigation for the #6 elm that may be impacted. The BCNA requested an alternate method of excavation under the elm, including leaving some type of soil bridge over the top 3' to 4' of trench, preserving the root ball of the tree. *Exhibit E* shows the blue, red, and green options as presented throughout these meetings.
- Additional meetings were held with the BCNA representatives, ACWP Staff, Parks Staff, and AWU Staff at 5 p.m. of 1/26/09 and at 7 a.m. the morning of 1/27/09 to discuss final layout of the proposed alignment. With slight adjustments in the field, the stakeholder team determined that the red line should be shifted slightly based on the tree canopy present in the park. This revised red line a line of turquoise tape laid on the ground was laid out in the field for viewing and was subsequently translated into the drawing shown in *Exhibit A*



#### ALTERNATIVE ALLIGNMENT REVIEW

**Exhibit** E includes a map of the four options reviewed during this phase of rapid response to constructability issues, and **Exhibit** A presents the final alignment proposed for the project. The following pages include a narrative of pros and cons of each option, as well as a matrix of cost factors reviewed with each option. These are order of magnitude estimates only and are not presented herein for budgeting purposes of the AWU.

# **Blue Option: Characteristics**

- The blue option utilizes the existing bore that is already installed.
- The end of the bore will be excavated and a new manhole set there at about station 2+10.
- The line then is shifted into the cleared path and open cut towards the east, about 14' to 16' deep.
- At the east end, one new manhole is necessary to make the turn into the existing main.
- At least one tree removal is necessary where the end of the existing bore is excavated near 2+10 it is a large hackberry.

	principal de la companya del companya del companya de la companya		a raige machinerity.			
					Extended	
	Quantity	Unit	Description	Unit Price	Price	Description
1	70	LF	Casing already installed	\$ 391.00	\$ 27,370.00	(Use bore already installed)
2	70	LF	Carrier to be installed	\$ 89.74	\$ 6,281.80	(add carrier pipe inside bore)
3	-188	LF	Delete 8" trenchless	\$ 525.00	\$ (98,700.00)	From 2+10 to 0+00
4	188	LF	Add 8" open cut	\$ 135.00	\$ 25,380.00	From 2+10 to 0+00
5	1	EA	Add 4' manhole at 2+10	\$8,000.00	\$ 8,000.00	Add manhole at end of current bore b/c PI
6	1	EA	Add 4' manhole at 0+40 offset	\$8,000.00	\$ 8,000.00 <b>\$ (23.668.20)</b>	To make turn into MH 19  Cost Savings to City



#### **Red Option: Characteristics**

- The red option does not utilize the existing bore that is already installed. This bore is backfilled and left in place.
- The line will be open cut from the intersection of South 3<sup>rd</sup> and James where the existing lines must be picked up.
- The line is open cut the full length of the trail about 10' to 12' deep and is basically centered in the clear area.
- At the east end, one manhole is necessary to make the turn into the existing main.
- The manhole at 0+80 is no longer needed with this option.
- No tree removals are necessary with the red option. One double trunk elm is impacted by excavation in the CRZ.

	Quantity	Unit	Description	Unit Price	Extended Price	Description
						(Pay for bore already
1	70	LF	Casing already installed	\$ 391.00	\$ 27,370.00	installed, but just backfill it)
			Carrier NOT to be			
2	-70	LF	installed	\$ 89.74	\$ (6,281.80)	(Not Using Bore)
3	-188	LF	Delete 8" trenchless	\$ 525.00	\$ (98,700.00)	From 2+10 to 0+00
4	280	LF	Add 8" open cut	\$ 135.00	\$ 37,800.00	From 2+80 to 0+00
5	-1	EA	Delete 4' manhole at 2+80	\$8,000.00	\$ (8,000.00)	Deleted grade change, don't need MH here
6	1	EA	Add 4' manhole at 0+40 offset	\$8,000.00	\$ 8,000.00	To make turn into MH19
					\$ (39,811.80)	Cost Savings to City

#### **Turquoise Option: Characteristics**

- The turquoise option is a result of final field meetings held 1/26/09 and 1/27/09 and is simply a slight adjustment to the previously described "red" option. The turquoise option allows less impact to tree root zones based on the actual tree canopies present in the field.
- The turquoise option includes the same basic design characteristics as the red option, noting specifically that the manhole at the east end will be field-adjusted to maintain no more than a 90 degree turn from the 8-inch line into the 18-inch line.
- The costs of the red and turquoise options are similar.



#### **Green Option: Characteristics**

- The green option utilizes the 70 foot long existing bore that is already installed.
- A new pit is constructed near the existing pit at station 0+75.
- The line between the new pit and the existing pit is open cut, causing 3 tree removals and adding impact to the large oak tree.
- No new manholes are required.
- Contractor can bore uphill from the new pit to the existing pit at 2+80, so dealing with groundwater is not as much of a hindrance.
- Contractor can work this crew at the same time as the line D crew works from the existing pit at 0+00
- Would require one week to mobilize, and three weeks to excavate pits = one month delay.

	Quantity	Unit	Description	Unit Price	Extended Price	Description
	Quantity	Offic	Bescription	Official	1 1100	New shaft at west end as
1	1	EA	New 25' x 12' Shaft	\$110,000.00	\$110,000.00	working shaft
						Receiver pit at end of
2	1	EA	New 12' x 12' Shaft	\$68,000.00	\$68,000.00	current bore at 2+10
						Open cut section b/t two
3	3	EA	Tree Removals	\$400.00	\$1,200.00	pits
						Grade Change is likely
4	1	EA	Add 4' manhole at 2+10	\$8,000.00	\$8,000.00	where two tunnels intersect
					\$187,200.00	Additional Cost to City



#### CONSENSUS RECOMMENDATION

Based on the above information, a group meeting was held on the evening of January 23<sup>rd</sup> in which the evaluation process was discussed, and a clear preference for the red option emerged. As previously stated, follow-up meetings with the stakeholders and City staff on January 26<sup>th</sup> and January 27<sup>th</sup> provided slight adjustments to the red option that helped preserve more of the root zones of trees. The options and required construction conditions were discussed and neighborhood input was received. The turquoise option is now considered the preferred alternate. The benefits of this option when compared to the other options are:

- The recommended option utilizes open cut construction to install 400 feet of 8 inch pipe along the existing east-west parks pathway from James Street through Nicholas Dawson Park. The original design included approximately 100 feet open cut, so this is an increase of 300 linear feet.
- The recommended option does not utilize the existing 70 foot bore that has already been installed. This results in added cost to AWU, but a lesser impact to trees and neighbors.
- Not utilizing the bore allows for a shallower construction depth of approximately 10 to 12 feet, resulting in faster construction.
- The shallower depth is believed to be above the interface between the fractured limestone of the
  Austin Group and the underlying Eagle Ford shale. Based on an interpretation from one of the
  neighborhood representatives (who is also a professional geologist) the interface is likely the
  cause of artesian groundwater that has been encountered and has prevented the trenchless
  construction from proceeding.
- This open-cut construction option is believed to have the least likelihood of having a negative impact on an identified spring in the area, as the water when intercepted will be visible at the surface. This allows the contractor to more easily work around the water and to install protective measures. The open cut option will require trench protection measures to prevent the routing of spring flow through the trench, and prevent the groundwater from causing instability in the trench. The City's hydro-geologist, Scott Hiers has agreed to be involved in the design and construction for this critical stretch of line.

### **Proposed Strategy for Limiting Negative Impacts in Nicholas Dawson Park**

- The proposed alignment is situated in the open area along the parks path, and avoids critical or serious impacts to trees in the park with the exception of one multi-trunk Elm tree (gray painted as #6 in the field, #812 in the plans). The Parks arborist has stated that this tree has a high likelihood of surviving this impact. The AWU has agreed to provide financial mitigation should this tree not survive. To minimize impact to the root zone, construction under the Elm will be attempted by digging under the root ball and not excavating the top 3 feet of top soil, leaving a "soil bridge" over the trench line. The width of this soil bridge is likely about 12' to 15'. This method increases the chances of survival for this tree. If the soil bridge is not possible, then the contractor will attempt to hand excavate in the root zone of this tree to limit damage.
- A cluster of oak trees is approximately 16 feet from the trench all Oak wounds will be painted.



- All large trees (excluding ligustrum and chinaberry) within 20' of the trench will be pre-treated with nutrients to bolster their ability to recover. This pre-treatment will be accomplished as soon as the soil testing results are received, and prior to construction commencement.
- A cluster of oak trees near manhole 19 leans considerably to the south. Cutting on the south side of the trees is likely to have little or no impact on the structural root system of the trees. The manhole in this area is planned to be field adjusted to maintain no more than 90 degree turn from the 8" line into the 18" line while avoiding work under these trees if possible.
- A certified arborist provided by the contractor will be on-site at all times during excavation and pruning this is already written into the contractor's executed contract agreement.
- An additional CID inspector has been added to the job to provide additional support for this portion of the project.
- All excavation will be sawcut within the critical root zone of large trees. If the contractor is working under canopy, then it is assumed that the work is within the critical root zone.
- The contractor will use the smallest equipment capable of completing the work. This may not be the smallest equipment available on the market, but consideration will be given to the equipment used on this site.
- The contractor will be asked to limit the trench width to the smallest possible to complete the work safely and still provide adequate working space and trench protection. Perhaps the 5' anticipated width can be reduced to as little as 3 feet.
- After trenching is complete, the dirt will be brushed back and all roots will be clean cut and painted.
- The project is required to re-vegetate the cleared/bare areas with native seed and erosion control blankets as soon as construction is complete. The project is required to restore the park to the pre-construction condition, or better, by contract.
- PARD will continue to work with the neighborhood to plant final plantings and trees in the area, likely waiting until late fall 2009 to complete removal of invasive species in the park. Once the invasives are removed, then cleared areas will be utilized for native tree replacement plantings.
- BCNA reps will be notified as critical steps in this process are commenced for example when pre-treatment is scheduled, when trenching begins, and when painting of wounds is accomplished.

#### UPDATE TO PARKS BOARD - REVISED LINE C ALIGNMENT AND CONSTRUCTION

In order to continue under the current schedule for the ACWP, the AWU is providing an update to the Parks Board for the revised Line C alignment, and the change to open-cut construction, as proposed within this memorandum. This update will occur with citizen comments on January 27, 2009 Parks Board Meeting.



EXHIBIT A
PREFERRED ALIGNMENT
ORIGINAL "RED" OPTION
AND THE FINAL
"TURQUOISE" OPTION

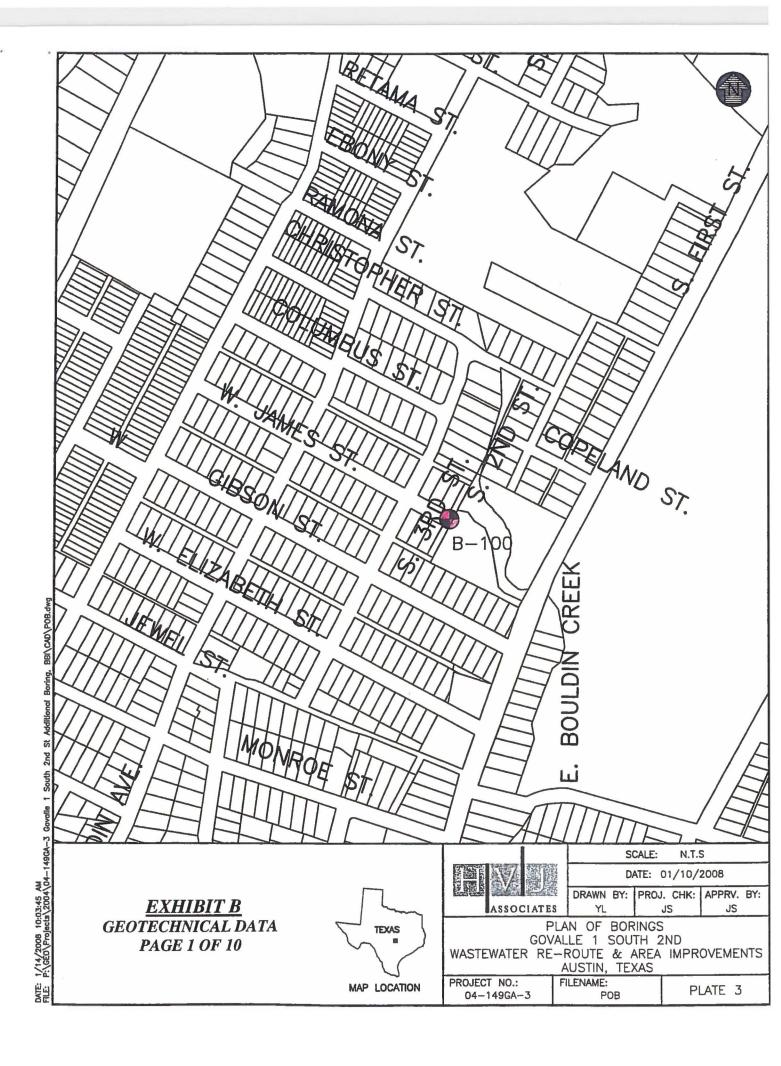






# EXHIBIT B

Geotechnical Information Boring Logs from Design Phase



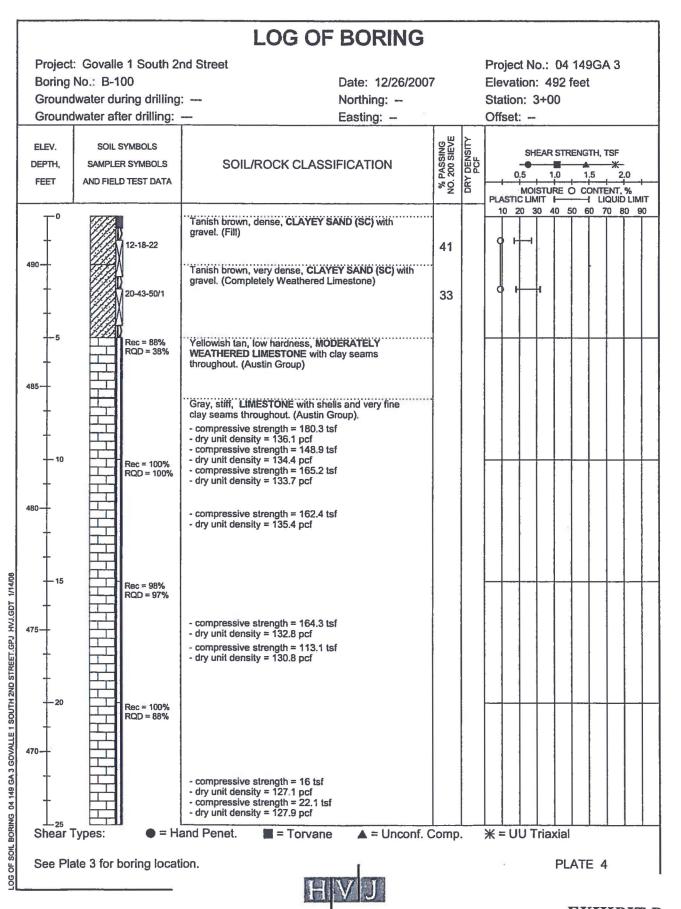
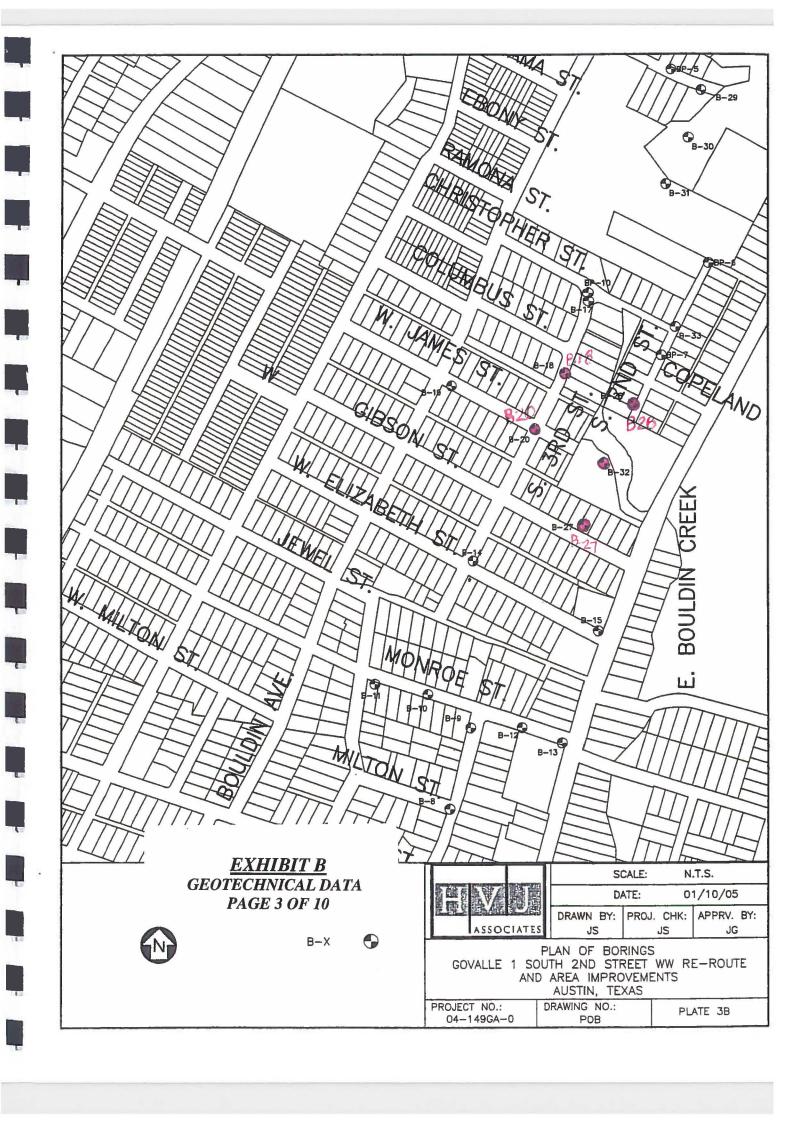


EXHIBIT B GEOTECHNICAL DATA PAGE 2 OF 10



# LOG OF SOIL BORING Project No.: 04-149GA-0 Project: South 2nd Street Elevation: 495.1 feet Boring No.: B-18 Date: 2-2-05 Northing: 10,066,456.7 Station: -Groundwater during drilling: ---Easting: 3,110,831.8 Offset: --Groundwater after drilling: ---PASSING 200 SIEVE DRY DENSITY PCF ELEV. SOIL SYMBOLS SHEAR STRENGTH, TSF SOIL DESCRIPTION DEPTH, SAMPLER SYMBOLS 1.0 FEET AND FIELD TEST DATA NO. MOISTURE O CONTENT, % PLASTIC LIMIT | H LIQUID LIMIT 10 20 30 40 50 60 70 80 90 2" ASPHALTIC CONCRETE 15" BASE MATERIAL: yellow and brown crushed FILL MATERIAL: brown CLAY (CL) with limestone. (Fill). 55 Stiff to very stiff, brown CLAYEY GRAVEL (GC) with PP = 2.75 tsf clay. (Completely Weathered Limestone). 490 PP = 3.0 tsf 0 PP = 2.75 tsf 111 Medium hard, yellowish-white LIMESTONE; fractured; alternating hard and soft layers. (Austin Group). 18-50/2.5" -15 480 -EXHIBIT B **GEOTECHNICAL DATA** 475 -PAGE 4 OF 10 来 = UU Triaxial • = Hand Penet. ■ = Torvane ▲ = Unconf. Comp. Shear Types: Plate 21 See Plate 3 for boring location.

# LOG OF SOIL BORING

Project: South 2nd Street

Boring No.: B-20

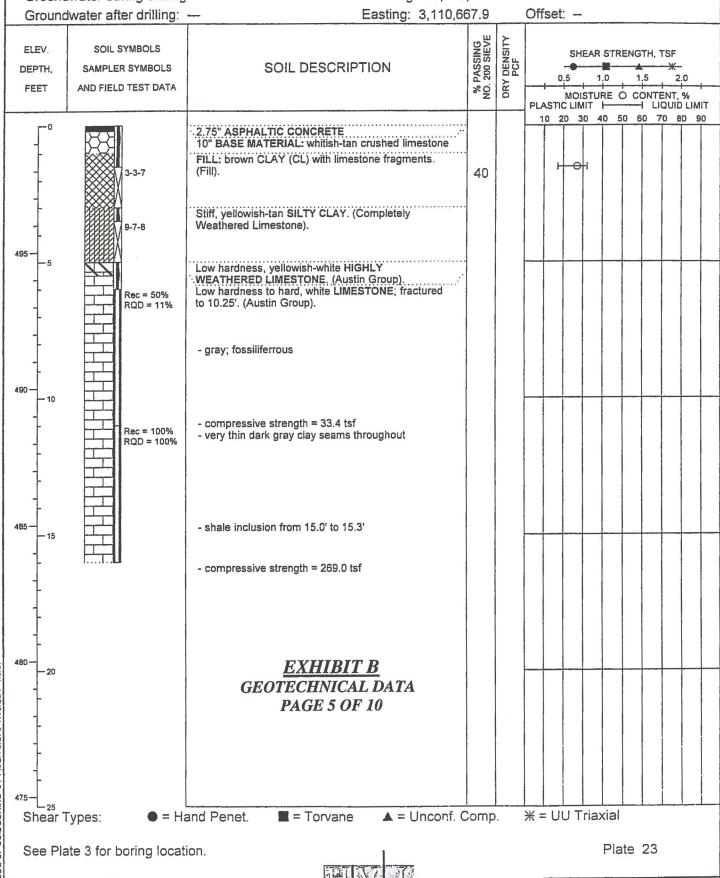
Groundwater during drilling: ---

Date: 1-31-05

Project No.: 04-149GA-0 Elevation: 499.65 feet

Northing: 10,066,284.4

Station: --



# LOG OF SOIL BORING Project No.: 04-149GA-0 Project: South 2nd Street Elevation: 493.1 feet Date: 1-28-05 Boring No.: B-27 Station: --Northing: 10,065,818.4 Groundwater during drilling: ---Easting: 3,110,953.7 Offset: --Groundwater after drilling: ---PASSING 200 SIEVE DRY DENSITY PCF SOIL SYMBOLS ELEV. SHEAR STRENGTH, TSF SOIL DESCRIPTION DEPTH, SAMPLER SYMBOLS 1.0 AND FIELD TEST DATA FEET 80 MOISTURE O CONTENT, % PLASTIC LIMIT F 50 60 70 80 90 10 20 30 40 Stiff, brown CLAY (CH) with highly weathered PP = 1.50 tsf limestone. (Alluvium). PP = 2.50 tsf Low hardness, yellowish-brown HIGHLY WEATHERED LIMESTONE. (Austin Group). 50/2" Rec = 99% RQD = 67% Medium hard, yellowish-brown LIMESTONE; fossiliferrous; with very thin dark gray clay layers throughout. (Austin Group). - compressive strength = 161.3 tsf Rec = 97% - gray **RQD = 90%** 480 Rec = 97% RQD= 73% 475 EXHIBIT B GEOTECHNICAL DATA PAGE 6 OF 10 LOG OF SOIL BORING 04-149GA-0.GPJ HVJ.GDT 1/5/07 \* = UU Triaxial ▲ = Unconf. Comp. Shear Types: = Hand Penet. = Torvane Plate 30 See Plate 3 for boring location.

	LOG OF SOIL BORING															
				2nd Street		Project No.: 04-149GA-0										
		_	No.: B-2		Date: 1-31-05			Elevation: 488.4 feet								
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				19-26-32	Low hardness, white, HIGHLY WE LIMESTONE. (Austin Group).	ATHERED			5							
	_	Γ														
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		-		Rec = 75%	clay seams; alternating hard and sthroughout. (Austin Group).	soπ layers										
	-	_5		RQD = 0%									$\perp$			
	-			Rec = 28% RQD = 0%												
		-			<b>EXHIBIT</b>	R										
		-			GEOTECHNICAL											
					PAGE 7 OF	10										
	480 —					*										
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	1	]		RQD = 100%		*										
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	-				- gray; fossiliferrous											
	475	-			- compressive strength = 68.1 tsf											
	4,5	-			- compressive strength - ob. r tsi											
	-				- heavily fractured 15.0' to 17.0'											
	-	— 15		Rec = 100% RQD = 54%									2			
		<u> </u>				.31										
		-														
	-															
	470 —															
					- heavily fractured 19.0' to 20.25'											
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100				RQD = 80%	- gray shale seam 20.75' to 21.25	y.										
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GPJ	_															
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4-149	403	-														
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LOG OF SOIL BORING 04-149GA-0.GPJ HVJ.GDT 1/5/07	Sh	near T	ypes:	● = Ha	and Penet. = Torvane	▲ = Unconf. C	Comp		* = U	IU Tri	axial					
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Project: South 2nd Street Boring No.: B-28 Groundwater during drilling: — Groundwater after drilling: — ELEV. SOIL SYMBOLS DEET NATIONAL SAMPLER SYMBOLS FEET NATIONAL STREET		LOG OF SOIL BORIN	IG								
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- compressive strength = 51.5 tsf  - 35  - 35  - 35  - 40  - 40  - 40  - 40  - 40  - 40  - 40  - 40  - 40  - 40  - 5hear Types:	DEPTH, SAMPLER SYMBOLS	SOIL DESCRIPTION	% PASSING NO. 200 SIEVE	DRY DENSITY PCF	O.5 MO PLASTIC LII	1.0	1.5 2 ONTENT,	%			
EXHIBIT B GEOTECHNICAL DATA PAGE 8 OF 10  Shear Types:   Hand Penet.   The Torvane A = Unconf. Comp.   Here 31b	Rec = 66% RQD = 21%	- compressive strength = 51.5 tsf			10 20	30 40 50	60 70 8	0 90			
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Shear Types:   = Hand Penet.   = Torvane											
See Plate 3 for boring location.  Plate 31b	Shear Types: ● = Ha	and Penet. ■ = Torvane ▲ = Unconf. 0	Comp		*=UU7	riaxial					
31	See Plate 3 for boring locat	ion.				Plate	31b				

	ł		LUG OF SUIL BUKIN	G									
	Boring Ground	ring No.: B-32 Date: 6-29-05 Elevi oundwater during drilling: Northing: 10,066,123.1 Static						Project No.: 04-149GA-0 Elevation: 482.3 feet Station: Offset:					
	ELEV. DEPTH, FEET	SOIL SYMBOLS SAMPLER SYMBOLS AND FIELD TEST DATA	BOLS SOIL DESCRIPTION SSING SOIL DESCRIPTION			SHEAR STRENGTH, TSF  0.5 1.0 1.5 2.0  MOISTURE O CONTENT, %						<del>-  </del>	
	480	12-43-50/3"	Stiff, brown GRAVELLY CLAY (CL)  Low hardness, tan and gray HIGHLY WEATHERED LIMESTONE. (Austin Group).				1C LIMIT 20 30						
	—5 —5	Rec = 100% RQD = 58%	Medium hard, SLIGHTLY WEATHERED LIMESTONE. (Austin Group).  - orangish-tan clay layer from 7.0' to 8.25'										
	10 - 10 - 470	Rec = 100% RQD = 80%	- gray with very thin clay layers  EXHIBIT B  GEOTECHNICAL DATA  PAGE 9 OF 10										
	- - - - - - - - - - - -	Rec = 100% RQD = 82%	- compressive stength = 245 tsf - unit weight = 146.2 pcf Hard, gray LIMESTONE with numerous clay layers throughout and pyrite inclusions. (Austin Group).  - slickenside at 16.0' - slickenside at 16.5'										
.GDT 1/5/07	465 —	Rec = 98% RQD = 92%	- compressive strength = 182 tsf unit weight = 132.1 pcf										
LOG OF SOIL BORING 04-149GA-0.GPJ HVJ.GDT 1/5/07	460		Medium hard, dark gray to dark brown SHALE fossiliferrous. (Eagle Ford).  - with limestone inclusions from 23.0' to 25.0'  - compressive strength = 141 tsf unit weight = 145 pcf			W = 1	117-						
Shear Types:   Hand Penet.   Shear Types:   Hand Penet.   Shear Types:   Hand Penet.   Hand Penet.									· · ·	,			

# Project No.: 04-149GA-0 Project: South 2nd Street Elevation: 482.3 feet Date: 6-29-05 Boring No.: B-32 Northing: 10,066,123.1 Station: -Groundwater during drilling: ---Easting: 311,078.6 Offset: -Groundwater after drilling: ---% PASSING NO. 200 SIEVE DRY DENSITY PCF ELEV. SOIL SYMBOLS SHEAR STRENGTH, TSF SOIL DESCRIPTION DEPTH, SAMPLER SYMBOLS FEET AND FIELD TEST DATA MOISTURE O CONTENT, % PLASTIC LIMIT | LIQUID LIMIT 10 20 30 40 50 60 70 80 90 Rec = 95% RQD = 70% - moderate angle fractures at 27.0', 27.3', and 27.8'. 455 - slickenside at 29.0' and 29.5' 450 445 EXHIBIT B GEOTECHNICAL DATA **PAGE 10 OF 10** 440 .0G OF SOIL BORING 04-149GA-0 GPJ HVJ.GDT 1/5/07 435 = Hand Penet. = Torvane ▲ = Unconf. Comp. ★ = UU Triaxial Shear Types: Plate 35b See Plate 3 for boring location.

LOG OF SOIL BORING



# EXHIBIT C HYDROGEOLOGIST RECOMMENDATIONS

Email dated 1/14/09

### Sharon Hamilton, P.E.

From:

Hiers, Scott [scott.hiers@ci.austin.tx.us]

Sent:

Wednesday, January 14, 2009 1:10 PM

To:

Sharon Hamilton, P.E.

Subject: RE: ACWP South 2nd Street - Nicholas Dawson Park area - Groundwater

On Tuesday January 13, 2009, I completed a site inspection of the launch bore pit off of James Street where groundwater encountered. The pit is generally west and up gradient of El Mercado Spring and just up gradient of unnamed seep/spring along East Bouldin Creek. Water chemistry results for water in the pit indicates that its from a natural groundwater source. The pH measurement of 7.04 standard units and specific conductance of 1214  $\mu$ S/cm are within the typical levels for groundwater present in the Austin Chalk. The water temperature and dissolved oxygen pit water were also measured and their readings are 14.10 °C and 4.59 mg/l, respectively, which typical for groundwater.

After examining the bore pit walls it appears that small amount of water was seeping into the pit from bedding plan contact between a overlying thinly-bedded limestone unit and an underlying massive limestone unit within the Austin Chalk. The contact is about 13-ft below the nature ground surface. The contact appears to correspond to the spring/seep areas along East Bouldin, which is down-gradient of the bore pit. According the contactor the majority of the groundwater in the pit was originating from tunnel about 70-ft east of pit and backing into the pit. From bottom of bore pit about one-third of tunnel is underwater. As the tunnel slopes down to east, it become completely filled with water. This suggests the tunnel has intercepted a portion of the groundwater flow path feeding the El Mercado springs and perhaps the unnamed seeps/spring. Since both springs are still flowing, the groundwater flow path has not been completed bisect by the tunnel. Both springs shall be inspected daily. If any change of flow observed, the environmental inspector and ERM geologist should be contacted immediately.

Please note that during construction a water line broken and was still discharging near the pit. However, the water chemistry results for pH and specific conductance of 9.98 standard units and 300  $\mu$ S/cm, respectively, indicate that the water line is not source water observed in the in bore pit.

According to the contact, the presence of groundwater in the launch bore pit may require using changing it and using it has a receiving pit and using the current receiving pit as the new launch bore pit. Please keep ERM informed on any changes to current approved design.

Scott E. Hiers, P.G.
City of Austin
Watershed Protection & Development Review Dept.
505 Barton Springs Rd.
11th Floor
Austin, TX 78704

Office: (512) 974-1916 Cell: (512) 497-8324 Fax: (5120 974-2846 EXHIBIT C HYDROGEOLOGIST RECOMMENDATIONS PAGE 1 OF 2

From: Sharon Hamilton, P.E. [mailto:Sharon.Hamilton@CASEngineers.com]

Sent: Monday, January 12, 2009 2:00 PM

To: Pope, Sylvia; Hiers, Scott

Cc: Bowman, John; Locklear, Alexa; 'Leighton, Henry C.'; Delaplane, Frank; moncadataz@sbcglobal.net; Tinsley,

Beau; McGill, Gary; 'Sharon Hamilton, P.E.'; Joe.Sesil@aecom.com; Weigand, Ingrid **Subject:** ACWP South 2nd Street - Nicholas Dawson Park area - Groundwater

Importance: High

We have encountered groundwater in our bore pits on each side of Nicholas Dawson Park (but not at the pit within the park itself). The active pit to the west (at the dead end of James Street) is close to the buffer zone of a mapped spring, and the underground work is now likely within 25' of the 75' buffer zone. The spring outflows from the end of a storm sewer, likely traveling down the bedding for the storm line. I would like your input on whether we have additional requirements based on the proximity to the spring. The crew has stopped work due to the groundwater making it difficult to proceed working downhill into the water.

I have left messages for both Sylvia and Scott on office phones and pagers. I just spoke to Phil Moncada and he is also aware of the situation. I also left messages for Frank Delaplane on office and cell phones. I also alerted Beau with Parks and he will visit the site today and notify appropriate Parks staff.

For now we are on hold at James Street pit until I get direction from ERM, but we will continue working at the pit inside the park as there is no groundwater apparent in that pit.

Respectfully,

Sharon Hamilton, P.E.
CAS Consulting & Services
Project Manager - Austin Clean Water Program
Permitting Manager - South IH 35 WWW PMC

811 Barton Springs Road, Suite 400 Austin, TX 78704

512.479.1642 Direct Phone 512.474.5500 Main Phone 512.474.6392 Fax 512.695.3263 Cell

CAS Consulting: <a href="http://www.casengineers.com/">http://www.ci.austin.tx.us/acwp/livesite.htm</a>
ACWP: <a href="http://www.ci.austin.tx.us/water/si35ww.htm">http://www.ci.austin.tx.us/water/si35ww.htm</a>

EXHIBIT C HYDROGEOLOGIST RECOMMENDATIONS PAGE 2 OF 2



# EXHIBIT D:

Parks Arborist Tree Treatment Strategy

Email Dated 1/26/09

### Sharon Hamilton, P.E.

From: Passmore, Walter [Walter.Passmore@ci.austin.tx.us]

**Sent:** Monday, January 26, 2009 2:17 PM

To: Sharon Hamilton, P.E.

Cc: Soliz, Ricardo; Tinsley, Beau

Subject: RE: ACWP South 2nd - North Phase - Tree Treatments at ND Park

#### Sharon,

what we agreed to do is captured in the following paragraph

Before construction begins, improve soil conditions within the tree protection zone. The goal is to "bait" new roots into the protected zone and away from unprotected soil. The best treatment is mulching the protection zone to a depth of 4 to 6 inches. Pine, cypress, and hardwood chips (wood and bark) are common mulches used to add organic matter to the soil. Avoid piling mulch against tree stems. Before mulching, apply a slow release fertilizer (N-P-K amounts based on soil testing). Water the soil during droughts to maintain tree vigor. An application of paclobutrazol at the base of trees before construction also has been effective at encouraging trees to produce new roots and repair root damage.

in summary; soil test, fertilize as recommended by the soil test, mulch, apply paclobutrazol. All roots need to be cleanly cut and wounds/cuts on roots near oak trees should be painted with a registered tree paint. Less than 25% of the total root system impacted will typically have minor impacts on overall tree health **if** we optimize conditions for the protected portion or the root system. 25-50% of the root system impacted may have serious threats to tree health. Over 50% of the root system impacted will often kill the tree and should be considered terminal.

Walter Passmore, Urban Forest Program Manager Austin Parks and Recreation Department 2525 South Lakeshore Blvd. Austin, TX 78741 (512) 440-5192 "Trees, the original green solution" http://www.ci.austin.tx.us/parks/forestry.htm

From: Sharon Hamilton, P.E. [mailto:Sharon.Hamilton@CASEngineers.com]

**Sent:** Monday, January 26, 2009 10:48 AM **To:** 'Ben Richards'; 'Marion (Bud) Carter'

Cc: Passmore, Walter; Bowman, John; 'Henry Leighton'

Subject: ACWP South 2nd - North Phase - Tree Treatments at ND Park

Importance: High

Walter Passmore visited the site last week and suggested some treatment for the trees numbered as 1 through 9 in the gray paint the neighbors added.

We need to have your arborist pull 5 soil samples b/t these trees (all on the south side of the trail, on the south side of the tree trunks) and have them analyzed. This needs to happen today or tomorrow. The trees will then need to be fertilized on the south side and treated with a dormancy-inducing chemical on the north side (the side nearest the trail and the trench). Walter is supposed to send me the name of the chemicals for that treatment.

Please get me a cost from your arborist on the soil samples and proceed with this work. If you need help with where to get the tests run, we can work with one of the City arborists to see if there is a lab on contract already.

Respectfully,

Sharon Hamilton, P.E.

<u>EXHIBIT D</u> ARBORIST RECOMMENDATIONS PAGE 1 OF 2

## **CAS Consulting & Services**

**Project Manager - Austin Clean Water Program Permitting Manager - South IH 35 WWW PMC** 

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South IH 35: <a href="http://www.ci.austin.tx.us/water/si35ww.htm">http://www.ci.austin.tx.us/water/si35ww.htm</a>

EXHIBIT D
ARBORIST
RECOMMENDATIONS
PAGE 2 OF 2



# EXHIBIT E OPTIONS CONSIDERED DURING EVALUATION

"RED", "BLUE" AND "GREEN" OPTIONS

